

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS

##### PREAMBLE

1. **Sections Affected**  
R4-43-206
- Rulemaking Action**  
Amend
2. **The specific authority for the rulemaking, including both the authorized statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 32-1072, et seq.  
Implementing statutes: A.R.S. § 41-1072 through 41-1078
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Kenneth D. Fink, Executive Director  
Address: Board of Occupational Therapy Examiners  
1400 West Washington, Suite 240  
Phoenix, Arizona 85007  
Telephone: (602) 542-5300  
Fax: (602) 542-5469
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The implementation of this rule has been directed by the Arizona Revised Statutes.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this date:**  
Not applicable.
6. **The preliminary summary of the economic, small business, and consumer impact:**  
The implementation of this new Section has been directed by Arizona Revised Statutes.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**  
Name: Kenneth D. Fink, Executive Director  
Address: Board of Occupational Therapy Examiners  
1400 West Washington, Suite 240  
Phoenix, Arizona 85007  
Telephone: (602) 542-5300  
Fax: (602) 542-5469
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, in no proceedings are scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**  
No oral proceedings are scheduled. Oral proceedings may be requested from the person listed in question 7 above immediately following 30 days following the publication of the Notice of Proposed Rulemaking in the *Register* and immediately after the Board meeting next following the 30-day *Register* publication. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement may be submitted to the person listed in question 7 above to arrive not later than 5 p.m., June 30, 1997.

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9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporated by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 43. BOARD OF OCCUPATIONAL THERAPY EXAMINERS**

**ARTICLE 2. LICENSURE**

Section

R4-43-206. Procedures for Processing License Applications

**ARTICLE 2. LICENSURE**

**R4-43-206. Procedures for Processing License Applications**

**A. Initial application for a license or limited permit.**

1. The Board shall complete an administrative completeness review within 60 days from the date of receipt of an initial application for an occupational therapist license or occupational therapy assistant license and a limited permit and notify the applicant in writing that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what documentation or information is missing.
2. If deficiencies are found with the application, the Board shall prepare a written comprehensive list of deficiencies and the 60-day time frame to complete the administrative completeness review shall be suspended from the date the deficiency notice is mailed to the applicant's last known mailing address.
3. An applicant for an initial license or a limited permit shall submit all of the deficient documentation and information within 60 days of the date the deficiency notice was mailed. If the application fails to submit all of the deficient documentation and information within the 60 days of the date the deficiency notice was mailed, the Board may close the applicant's file. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
4. If an applicant cannot submit all deficient documentation or information within 60 days of the date the deficiency notice was mailed, the applicant may obtain an extension by submitting a written request to the Board postmarked or delivered not later than 60 days from the date of mailing of the deficiency notice. The written request for an extension shall document the reasons the applicant is unable to meet the 60-day deadline.
5. Pursuant to A.R.S. § 32-3403(A), the Executive Director's duties shall include review of requests for a 60-day deadline extension and grant the request if it can be determined that a 60-day deadline extension will enable the applicant to assemble and submit the deficient documentation or information. The 60-day deadline extension shall not be more than 60 days and the Executive Director shall notify the applicant in writing of the decision to grant or deny the request for an extension.
6. If the applicant fails to submit the deficient documentation or information within the 60-day deadline extension, the Board may close the applicant's file. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
7. Upon the receipt of all missing documentation or information within the time frames specified in this subsection

the Board has a 60-day time frame to complete a substantive review of the application, supporting documentation or information and shall issue or deny an initial license or limited permit.

**B. Renewal license application, request to transfer into inactive status or application to return to active status.**

1. The Board shall complete an administrative completeness review within 60 days from the date of receipt and shall notify the applicant in writing that the request to transfer into inactive status or application is either complete or incomplete for the following:
    - a. A renewal license application received from an occupational therapists;
    - b. A renewal license application received from an occupational therapy assistant;
    - c. A request to transfer into inactive status by either a occupational therapist or occupational therapy assistant who has an unexpired license;
    - d. A licensee who has submitted a renewal application to return to active status, the Board shall notify the applicant in writing that the application is either complete or incomplete.
  2. If deficiencies are found with the renewal application, the Board shall prepare a written comprehensive list of deficiencies and the 60-day time frames to complete the administrative completeness review shall be suspended from the date the deficiency notice is mailed to the applicant's last known mailing address. After the licensee has been notified of the deficiencies found with the renewal application, request to transfer into inactive status or a renewal application to return to active status, the Board shall not process the application for a license until the application has fully complied with all of the requirements of R4-43-102 and R4-43-103 and R4-43-201 through R4-43-206.
  3. Upon the receipt of a complete renewal application or a request to transfer into inactive status, the Board has 60 days to complete a substantive review and either issue or deny a license.
  4. If a licensee has submitted a complete renewal license application as evidenced by the postmark date or before the licensee's current license expires, however, the license will expire on or prior to the Board's next scheduled board meeting, then pursuant to A.R.S. § 32-3403 as part of the Executive Director's designated duties may issue a license extension to the date of the Board's next scheduled board meeting in order for the Board to continue the administrative completeness review process.
- C. For the purposes of A.R.S. § 41-1073 et. seq. the Board establishes the following time frames for both initial and renewal licenses:**
1. Administrative completeness review time frames: 60 days.
  2. Substantive review time frame: 60 days.
  3. Overall time frame: 120 days.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 10. WASTEWATER MANAGEMENT AUTHORITY OF ARIZONA**

**PREAMBLE**

<b>1. Sections Affected</b>	<b>Rulemaking Action</b>
R18-10-101	Repeal
R18-10-102	Repeal
R18-10-103	Repeal
R18-10-104	Repeal
R18-10-105	Repeal
R18-10-106	Repeal
R18-10-107	Repeal
R18-10-108	Repeal
R18-10-109	Repeal
R18-10-110	Repeal
R18-10-111	Repeal
R18-10-112	Repeal
R18-10-113	Repeal
R18-10-114	Repeal
R18-10-115	Repeal

**2. The specific authority for the rulemaking, including both the authorized statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 49-373(B)(6)

Implementing statute: A.R.S. § 49-373(B)(6)

**3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

**Primary Contact:**

Name: Lynn Keeling  
Address: Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, Arizona 85012  
Telephone: (602) 207-2223 or (800) 234-5677, ext. 2223 (Arizona only)  
Fax: (602) 207-2251  
TTD: (602) 207-4829

**Secondary Contact:**

Name: Martha Seaman  
Address: Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, Arizona 85012  
Telephone: (602) 207-2222 or (800) 234-5677, ext. 2222 (Arizona only)  
Fax: (602) 207-2251  
TTD: (602) 207-4829

**4. An explanation of the rule, including the agency's reasons for initiating the rule:**

During the 43rd Legislative Session, H.B. 2304, Laws 1997, was passed. The governor signed this bill into law on April 22, 1997. It was immediately effective because of the emergency enactment. This legislation renamed the Wastewater Management Authority of Arizona as the Water Infrastructure Finance Authority of Arizona (WIFA). The Authority is renamed because its function has been expanded. Prior to this legislation, WIFA operated as a financing organization for wastewater treatment systems and non-point source projects. The new Authority now also finances public drinking water facilities. Therefore, the new name reflects the "financing authority" related to water infrastructure.

When a board or agency changes its function, it becomes a new organization. WIFA's purpose of loaning money has not changed, but the potential recipients of the loan money and the sources of funding have been expanded. This transition is accomplished by repealing the Wastewater Management Authority and its rules, and creating a new Chapter.

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This rule repeals the entire Chapter 10 which explains the loan qualifications and the criteria specific to wastewater management facilities and nonpoint source projects. A notice of proposed rulemaking for new WIFA rules to be codified in 18 A.A.C. 15 is submitted at the same time as this Notice of Proposed Rulemaking. It can be found elsewhere in this Register.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this date:

Not applicable.

6. The preliminary summary of the economic, small business, and consumer impact:

This repeal is in response to a recent statutory change. The Wastewater Management Authority of Arizona (WMA) has been replaced by the Water Infrastructure Finance Authority of Arizona. This repeal removes the process for distribution of funds from WMA. However, this Chapter is re-organized into Chapter 15. The new Chapter 15 is only amended to comply with statutory changes. 18 A.A.C. 10 will not be repealed without Chapter 15 becoming effective at the same time. Therefore, the only impact from this rulemaking is the cost for ADEQ and WIFA to move and amend this Chapter.

7. The name and address of agency personnel with whom person may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Lynn Keeling  
Address: Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, Arizona 85012  
Telephone: (602) 207-2223 or (800) 234-5677, ext. 2223 (Arizona only)  
Fax: (602) 207-2251  
TTD: (602) 207-4829

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, in no proceedings are scheduled, where, when and how persons may request an oral proceedings on the proposed rule:

Oral proceedings will be held as follows:

**TUCSON, ARIZONA**

Date: June 30, 1997  
Time: 9 a.m.  
Location: Pima County of Governments  
PAG Conference Room  
177 North Church Avenue, Suite 405  
Tucson, Arizona 85701  
Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Karen Bazinet at (520) 792-1093.

**YUMA, ARIZONA**

Date: July 1, 1997  
Time: 2:30 p.m.  
Location: Yuma County Main Library  
Downstairs Conference Room  
350 3rd Avenue  
Yuma, Arizona 85364  
Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Penney Ahlstrom at (520) 782-1871, ext. 101.

**FLAGSTAFF, ARIZONA**

Date: July 2, 1997  
Time: 8:30 a.m.  
Location: City of Flagstaff  
City Council Chambers  
211 West Aspen  
Flagstaff, Arizona 86001  
Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Lee Cain (520) 779-7660.

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**PHOENIX, ARIZONA**

Date: July 2, 1997

Time: 2:30 p.m.

Location: Department of Environmental Quality  
Public Meeting Room  
3033 North Central Avenue  
Phoenix, Arizona 85012

Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Michael Scholnick (520) 207-4795.

These proceedings will include comment on the repeal of Chapter 10, the Wastewater Management Authority of Arizona.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporated by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follows:

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 10. WASTEWATER MANAGEMENT AUTHORITY OF ARIZONA**

**ARTICLE 1. FINANCING WASTEWATER FACILITIES  
AND NONPOINT SOURCE DISCHARGE PROGRAMS**

- R18-10-101. Definitions
- R18-10-102. Financial Assistance Available
- R18-10-103. Eligibility Criteria
- R18-10-104. Priority List
- R18-10-105. Priority Classes
- R18-10-106. Priority List Ranking Criteria
- R18-10-107. Financial Criteria
- R18-10-108. Environmental Review
- R18-10-109. Application Process
- R18-10-110. Federal Requirements
- R18-10-111. Project Construction
- R18-10-112. Fund Disbursements
- R18-10-113. Fund Administration
- R18-10-114. Intended Use Plan and Interest Rate Determinations
- R18-10-115. Disputes

**ARTICLE 1. FINANCING WASTEWATER FACILITIES  
AND NONPOINT SOURCE DISCHARGE PROGRAMS**

**R18-10-101. Definitions**

In addition to the definitions prescribed in A.R.S. §§ 49-101, 49-201, and 49-371, the terms of this Article, unless otherwise specified, have the following meanings:

1. "Applicant" means any governmental unit, identified in the Nonpoint Source Program, that is seeking financial assistance from the fund pursuant to the provisions of this Article.
2. "Application" means a request for financial assistance submitted to the Board, by an applicant.
3. "Approval to Construct" means the written approval issued by the Department to an applicant or recipient indicating that project construction may begin.
4. "Authority" means the Wastewater Management Authority of Arizona pursuant to A.R.S. § 49-371.
5. "Board" means the board of directors of the authority pursuant to A.R.S. § 49-371.
6. "Certified Water Quality Management Plan" means a plan prepared by the designated Water Quality Management Planning Agency, pursuant to § 208 of the Clean

Water Act, and certified by the Governor.

7. "Clerk" means the Clerk of the Board of the Wastewater Management Authority of Arizona.
8. "Collector" means a network of pipes or sewers used to collect and transport wastewater to a treatment plant or disposal system.
9. "Construction" means, for a project, any placement, assembly, or installation of a building, structure, equipment, treatment process, or water pollution control activity.
10. "Design life" means the period during which a treatment works is planned and designed to be operated.
11. "Designated Water Quality Management Planning Agency" means a single representative organization designated by the Governor pursuant to § 208 of the Clean Water Act to develop a Certified Water Quality Management Plan for the area.
12. "Disbursement" means the transfer of cash from the fund to a recipient.
13. "EPA" means the United States Environmental Protection Agency and its successor.
14. "Equivalency Project" means a wastewater treatment facility under § 212 of the Clean Water Act constructed in whole or in part before October 1, 1994, with funds equaling the amount of the federal capitalization grant.
15. "Federal capitalization grant" means the assistance agreement by which the EPA obligates and awards funds allotted to the Authority for purposes of capitalizing the fund.
16. "Financial assistance" means the use of monies in the fund for any of the purposes identified in R18-10-102.
17. "Financial assistance agreement" means any agreement, including a loan repayment agreement, that defines the terms for financial assistance given pursuant to this Article.
18. "First Use Project" means a project identified by EPA and the state as part of the National Municipal Policy List for the state.
19. "Fund" means the wastewater treatment revolving fund established pursuant to A.R.S. § 49-374.
20. "Governmental unit" means a political subdivision or Indian tribe that may receive financial assistance from the Authority pursuant to A.R.S. § 49-373.

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21. "Infiltration" means water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes.
22. "Intended Use Plan" means the document prepared by the Board for submittal to EPA identifying the intended uses of the fund pursuant to R18-10-114.
23. "Interceptor" means a sewer which is designed for 1 or more of the following purposes:
- To intercept wastewater from a final point in a collector and convey such wastes directly to a treatment facility or another interceptor;
  - To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector or interceptor for conveyance to a treatment plant;
  - To transport wastewater from 1 or more municipal collectors to another municipality or to a regional plant for treatment; and
  - To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.
24. "Nonpoint Source Program" means Arizona's Nonpoint Source Program, approved by EPA under § 319 of the Clean Water Act for controlling pollution from nonpoint sources.
25. "Priority List" means the ranking of wastewater treatment facility projects developed by the Board pursuant to R18-10-104 and the ranking of nonpoint source projects developed pursuant to the administration of the Nonpoint Source Program.
26. "Project" means any distinguishable segment or segments of a wastewater treatment facility or the Nonpoint Source Program which can be bid separately and for which financial assistance is being requested or provided.
27. "Project completion" means the date, as determined by the Department after consultation with the applicant or recipient, that operation of the project is initiated or is capable of being initiated, whichever occurs last.
28. "Recipient" means an applicant who has entered into a financial assistance agreement with the Authority.
29. "Replacement" means obtaining and installing equipment or accessories which are necessary during the design and operation of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
30. "Regulatory authority" means the Department, EPA, the Department of Health Services, a county, city, or other local health department, a county environmental agency, or a sanitary district.
31. "State match" means the monies deposited into the fund that may be used to meet the requirements of § 602(b)(2) of the Clean Water Act.
32. "Treatment works" means any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes used to implement § 201 of the Clean Water Act, or necessary to recycle or reuse water over the design life of the works.
33. "User charge" means a charge levied on users of a treatment works.
- Loans consistent with § 603(d)(1) of the Clean Water Act;
  - The purchase or refinance of local debt obligations which were incurred after March 7, 1985, if building began after that date;
  - The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
  - Security as a source of repayment of principal and interest on bonds issued by the Authority provided that the net proceeds of the bonds are deposited in the fund;
  - Guarantees of debt obligations by governmental units which are issued to finance eligible projects;
- Investments to earn interest to be deposited into the fund; or
  - Payments of costs to administer the fund and the activities described in this Article;
- B. The Board shall describe projects and proposed financial assistance in its Intended Use Plan, developed pursuant to R18-10-114.

**R18-10-103. Eligibility Criteria for Financial Assistance**

- A. To be eligible to receive financial assistance an applicant shall propose a project for either of the following purposes:
- The planning, design, construction, or refinancing of treatment works which are all or part of a wastewater treatment facility owned by a governmental unit; or
  - Water pollution controls as identified by Arizona's Nonpoint Source Management Plan.
- B. A project eligible under subsection (A)(1) shall also meet all of the following applicable requirements prior to receiving financial assistance:
- The project shall appear on the Priority List developed pursuant to R18-10-104;
  - The applicant shall demonstrate the financial capability pursuant to R18-10-107;
  - The applicant shall complete or shall be in the process of completing the environmental review process described in R18-10-108 for all design and construction projects. Until the environmental review process is completed, the Board shall limit payments of financial assistance to pre-construction activity;
  - The applicant shall obtain or shall be in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities. Until all applicable permits and approvals required by federal, state, and local authorities are obtained, the Board shall limit payments of financial assistance to pre-construction activity;
  - The applicant shall ensure that the proposed design or construction of the project is consistent with the Certified Water Quality Management Plan; and
  - The applicant shall ensure that the project is consistent with applicable requirements of Title VI of the Clean Water Act.
- C. A governmental unit that has proposed a project pursuant to subsection (A)(2) shall also meet all of the following requirements prior to receiving financial assistance:
- The applicant shall demonstrate the financial capability under this Article, including all the following:
- Identification of the dedicated revenue source for repayment of the financial assistance;
  - Demonstration of the legal authority to enter into financial agreements with the Authority; and
  - Development of any needed construction, operation, and maintenance associated with the Nonpoint Source Program project;

**R18-10-102. Types of Financial Assistance Available**

- A. The Authority may use the fund for the following purposes:
- Financial assistance, which includes any 1 of the following:

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2. The applicant shall obtain or be in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities;
  3. The applicant shall ensure that the project is consistent with the Certified Water Quality Management Plan; and
  4. The applicant shall ensure that the project is consistent with § 319 and Title VI of the Clean Water Act.
- D. The Board shall provide financial assistance to eligible governmental units for proposed projects in priority order according to the priority list developed pursuant to R18-10-104. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Priority List in rank order that is ready to accept financial assistance.

**R18-10-104. Priority List**

- A. Each year the Board shall adopt the Priority List for the next fiscal year. The Board shall not adopt a new list for years where funds are not adequate to assist any projects. The fiscal year is the state fiscal year.
- B. When the Priority List is required pursuant to subsection (A), the list of wastewater treatment facility projects shall consist of 2 parts:
1. Part 1, a list of those wastewater treatment facility projects where the start of construction is planned within 5 years and that are under development or have been scheduled as part of an applicant's capital improvement plan. The Board shall rank this 5-year list by priority class, priority points, and year; and
  2. Part 2, a list of all other wastewater treatment facility projects ranked by priority class and priority points.
- C. Applicants, desiring placement on the Priority List, shall make their request for placement of 1 or more proposed projects on or before a date specified by the Board. When requesting placement on the Priority List, an applicant shall submit the following information:
1. A brief description of the project indicating category of need, such as secondary treatment, advanced treatment, or collection system;
  2. A brief description of the water quality or public health problem to be addressed by the project;
  3. Estimated costs associated with the project, including applicable planning, design, and construction; and
  4. A project schedule.
- D. The Board shall prepare a draft Priority List. In developing a draft Priority List, the Board shall consider all requests submitted under subsection (C), all requests made by regulatory authorities, all plans prepared pursuant to the Clean Water Act, and the most recently adopted Priority List.
- E. The Board shall hold a public meeting to receive comments on the draft Priority List. The Board shall publish a notice of the public meeting in newspapers statewide at least 45 days prior to the meeting date and make copies of the draft Priority List available to the public at least 30 days prior to the meeting date.
- F. The Board shall consider all comments submitted in writing prior to the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but prior to the close of the written comment period. The Board shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. The Board shall also consider the criteria identified in subsection (C). The Board shall summarize all of the comments received, prepare responses, and adopt the Priority

List to be used to administer the fund during the following fiscal year.

- G. The Board shall make additions or modifications to the Priority List whenever any 1 of the following conditions are met:
1. The project meets the criteria for Priority Class A specified in R18-10-105(B);
  2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects or needed to support financial arrangements made to sell bonds for the state match; or
  3. The additions or modifications are made by the Board at a public meeting.
- H. After an opportunity for public comment at a public meeting, the Board may remove a project from the Priority List under any 1 of the following circumstances:
1. The project has received all financial assistance from the fund requested by the applicant;
  2. The project has been financed with long-term indebtedness from another source;
  3. The project is no longer an eligible project; or
  4. The applicant requests removal.
- I. The Board shall retain a project on the Priority List in its assigned priority ranking if it is bypassed pursuant to R18-10-103(D).

**R18-10-105. Priority Classes**

- A. The Board shall evaluate each wastewater treatment facility project on the Priority List and place it into a priority class. The Board may place major portions of a project into different priority classes. The Board shall consider separation of a project into different priority classes when requested by the applicant or when the Board determines that available funds are inadequate to provide assistance to projects critical to the public health or to water quality. The Board may re-evaluate project priority classes under R18-10-104(G) when supported by information such as facility plans, feasibility studies, enforcement actions, and environmental reviews conducted under R18-10-108. If the Board determines that the problem being addressed by a project can be corrected by proper operation and maintenance of existing facilities, the project is ineligible for financial assistance.
- B. The Board may designate a project as Priority Class A if both the following conditions exist:
1. The goal of the project is to eliminate either:
    - a. An environmental nuisance as defined in A.R.S. § 49-141; or
    - b. A public health hazard declared by a regulatory authority; and
  2. Corrective action or mitigation measures have been initiated as evidenced by 1 of the following:
    - a. An administrative order issued by a regulatory authority;
    - b. A court order or decision;
    - c. A voluntary compliance agreement with a regulatory authority;
    - d. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development; or
    - e. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- C. The Board may designate a project as Priority Class B if the goal of the project is to eliminate a violation of water quality standards documented by official reports, data, or findings of a regulatory authority and corrective action or mitigation measures have been initiated as evidenced by 1 of the following:
1. An administrative order issued by a regulatory authority;



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2. A court order or decision;
  3. A voluntary compliance agreement with a regulatory authority;
  4. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development; or
  5. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- D. The Board may designate a project as Priority Class C if the goal of the project is to correct water quality which violates applicable permit requirements. The Board shall ensure that the violations are documented by required or special monitoring reports which confirm that the discharge limits for a parameter were exceeded either 3 consecutive months or any 4 months during the past year.
- E. The Board may designate a project as Priority Class D if any 1 of the following conditions exists:
1. The project will provide capacity required to serve existing needs;
  2. The project is designed for wastewater reuse, to conserve water, or to recharge wastewater; or
  3. The project is necessary to remedy interceptors which are overloaded.
- F. The Board may designate a project which does not receive a designation pursuant to subsections (B) through (E) as Priority Class E, if the project is for future growth only or if the project has been financed from another source of long-term indebtedness.

**R18-10-106. Priority List Ranking Criteria**

- A. The Board shall rank projects within priority classes using priority values obtained from the following formula:

$$PV = VF + CW + CI + AF$$

where:

PV = Priority Value

VF = Violation Factor

CW = Classification of Waters

CI = Conservation Index

AF = Affordability Factor

- B. Whenever the Board determines that a project seeks to correct a violation of a water quality standard or a violation of a condition contained in a valid water quality permit issued by a regulatory authority, the Board shall award Violation Factor points. The Board shall use documentation requirements specified under Priority Classes B and C as contained in R18-10-105(C) and R18-10-105(D) to assign Violation Factor points. VF points shall be awarded as follows up to a maximum of 30 points:
1. 15 points for nitrates, disease organisms or indicators, or conditions which create a threat to an endangered species;
  2. 10 points for Biochemical Oxygen Demand (BOD), Suspended Solids, or Phosphates; and
  3. 5 points for pH, Turbidity, or Temperature.
- C. The Board shall award points for either surface water or groundwater categories but not both. The most stringent protected use within each category shall be the sole determiner of the Classification of Waters. CW points are awarded as follows up to a maximum of 30 points:
1. For surface water, CW points shall be awarded for discharges into a water body assigned 1 of the following protected use classifications under R18-11-101:
    - a. 30 points for "full body contact" or "domestic water source." For purposes of this subsection, a project that is not within either of those classifications may receive 30 points if the discharge is into a water body classified as a "unique water" defined in R18-11-101;

- b. 20 points for "aquatic and wildlife (cold water fishery)";
  - c. 15 points for "aquatic and wildlife" that is not a cold water fishery; or
  - d. 10 points for "incidental human contact".
2. For groundwater, CW points shall equal:
- a. 30 points for discharges into an aquifer which serves as the sole source for a drinking water supply;
  - b. 20 points for discharges into an aquifer which provides part of a drinking water supply; or
  - c. 10 points for discharges into an aquifer which is not used as a drinking water supply.

- D. The Board shall award Conservation Index points as follows:
1. 30 points if the project will replace an existing groundwater use by reclaiming, reusing, or recharging a major portion of wastewater consistent with state law;
  2. 20 points if the project will reclaim, reuse, or recharge a major portion of wastewater consistent with state law;
  3. 10 points if the project will productively recycle wastewater constituents or recover energy;
  4. 0 points if the project will not reclaim, reuse, or recharge wastewater.
- E. The Board shall award Affordability Factor points up to a maximum of 10 points as follows:
1. 10 points if the cost per household for prior capital improvements and the proposed project exceeds 1.75% of the median household income of the community; or
  2. 5 points if the cost per household for operation, maintenance, prior capital improvements and the proposed project exceeds 1.5% of the median household income of the community.

**R18-10-107. Financial Capability Criteria**

- A. The applicant shall obtain Board approval of its financial capability, using a format provided by the Authority, as part of the application process.
- B. When determining an applicant's financial capability, the Board shall consider the applicant's past fiscal history in a format approved by the Board which is provided to the applicant. The applicant shall provide information about the cost of the project to be funded and the rate structure to pay for the project.

**R18-10-108. Environmental Review**

- A. If applicable, the Department shall conduct an environmental review pursuant to this Section for the design or construction of treatment works in accordance with applicable federal and state law. As part of the application process, the Authority shall provide information on conducting an environmental review consistent with the Clean Water Act and A.R.S. Title 49.
- B. An applicant may request, in writing, a categorical exclusion. If the Department determines that a categorical exclusion is warranted under this subsection, the project is exempt from the requirement of this Section.
1. The Department shall grant an exclusion if existing information and documents demonstrate that the project qualifies under 1 of the following categories:
    - a. Any project for which the planning is directed towards rehabilitation of existing facilities, functional replacement of equipment, or the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility;
    - b. Any project in sewer communities which is for minor upgrading and minor expansion of existing treatment works; or



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- e. Any project in unsewered communities where on-site technologies are proposed.
- 2. The Department shall deny a request for exclusion if the project falls under any of the following categories:
  - a. The project will create a new, or relocate an existing, discharge to surface or ground waters;
  - b. The project will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters;
  - c. The project is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions;
  - d. The project is known or expected to directly or indirectly affect cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones; or other resource areas;
  - e. The project is known or expected to cause significant public controversy; or
  - f. The project is known or expected not to be cost effective.
- C. If the Department determines that a categorical exclusion is not warranted under subsection (B), or if no request for an exclusion is made, the applicant shall prepare an Environmental Information Document (EID). The EID shall be of sufficient scope to assist in the development of an environmental assessment (EA) under subsection (D).
- D. The EA may be conducted by the Department or by the applicant under the supervision of the Department and shall include consideration of all of the following factors:
  - 1. For the delineated planning area, the existing environmental conditions relevant either to the analysis of alternatives or to determining the environmental impacts of the proposed project;
  - 2. The relevant future environmental conditions of the delineated planning area, including the alternative of no action;
  - 3. The purpose and need for the project in the planning area, including the existing public health or water quality problems and their severity and extent;
  - 4. A comparative analysis of feasible alternatives, including no action, throughout the project area. The comparison shall focus on the beneficial and adverse consequences, both direct and indirect, on the existing environment, the future environment, and individual sensitive environmental issues that are identified by project management or through public participation conducted under this Section. The comparison shall also include an analysis of all of the following factors:
    - a. Land use and other social parameters, including recreation and open space considerations;
    - b. Consistency with population projects used to develop state implementation plans under the Clean Air Act, 42 U.S.C. 7401-7626;
    - c. Cumulative impacts, including anticipated community growth within the project study area; and
    - d. Other anticipated public works projects, including coordination with such projects;
  - 5. A full range of relevant impacts of the project, including any irreversible or irretrievable commitments of resources to the project and the relationship between local short-term uses of the environment and the maintenance and enhancement of long term productivity; and
- 6. Proposed structural and nonstructural measures to mitigate or eliminate adverse effects on the human and natural environments. Among other measures, structural provisions include changes in project design, size, and location; and nonstructural provisions include staging facilities, monitoring and enforcement of environmental rules, and local commitments to develop and enforce land use rules.
- E. Upon completion of the EA required by subsection (D), the Department shall determine whether an environmental impact statement (EIS) is necessary.
  - 1. The Department shall prepare an EIS pursuant to subsection (F) if any of the following conditions exist:
    - a. The project is known or expected to have a significant adverse effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions;
    - b. The project is known or expected to directly or indirectly adversely affect recognized cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones; or other resource areas;
    - c. The project is likely to cause significant public controversy or is known or expected not to be cost effective; or
    - d. The project discharges into a body of water where the present protected or designated use is not being met or is being challenged as inadequate to protect existing uses, and the discharge will not be of sufficient quality or quantity to meet the requirements of these uses.
  - 2. If the Department determines pursuant to paragraph (1) of this subsection that an EIS is not necessary, the Department shall issue a finding of no significant impact (FNSI). The FNSI shall be accompanied by a finalized EA. Upon issuance of the FNSI, the project may proceed under the other requirements of this Article.
- F. An EIS required by subsection (E)(1) shall be prepared as follows:
  - 1. The Department shall first prepare and distribute a Notice of Intent;
  - 2. As soon as possible after the publication of the Notice of Intent required by paragraph (1) of this subsection, the Department shall convene a meeting of affected federal, state, and local agencies, affected Indian tribes, the applicant, and other interested parties. At the meeting, the scope of the EIS shall be determined by considering a number of factors, including all of the following:
    - a. The significant issues to be analyzed in depth in the EIS;
    - b. The preliminary range of alternatives to be considered;
    - c. The potential cooperating agencies and information or analyses that may be needed from cooperating agencies or other parties;
    - d. The method for EIS preparation and the public participation strategy; and
    - e. The relationship between the EIS and the completion of the facility plan required under R18-10-110(H) and any necessary coordination between the preparers of both documents;

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3. Upon completion of the scoping process described in paragraph (2) of this subsection, the Department shall identify and evaluate all potentially viable alternatives to adequately address the range of issues identified in the scoping process. Additional issues may also be addressed, or others eliminated, and the reasons documented as part of the EIS; and
4. After the analysis of issues is conducted pursuant to paragraph (3) of this subsection, the Department shall issue a draft EIS for public comment. Following public comment pursuant to subsection (I), the Department shall prepare a final EIS, consisting of all of the following:
  - a. The draft EIS;
  - b. Comments received on the draft EIS;
  - c. A list of persons commenting on the draft EIS;
  - d. The Department's responses to significant comments received;
  - e. A determination of consistency with the Certified Water Quality Management Plan; and
  - f. Any other information added by the Department.
- G. After a final EIS has been issued under subsection (F), the Department shall prepare and issue a record of decision (ROD) containing the Department's decision whether to proceed or not proceed with a project. A ROD issued with a decision to proceed shall include mitigation measures derived from the EIS process. A ROD issued with a decision not to proceed shall preclude the project from receiving financial assistance under this Article.
- H. Any project awaiting financial assistance which has a 5- or more-year-old categorical exclusion, FNSI, or ROD under this Section shall be subject to an environmental re-evaluation. The Department shall re-evaluate the project, environmental conditions, and public views and, in writing, either reaffirm or modify its original decision. Any new information used by the Department in making its determination shall be included.
- I. Public notice and participation under this Section shall be conducted as follows:
  1. If a categorical exclusion is granted under subsection (B), the Department shall provide public notice of that fact by publishing the notice as a legal notice at least once, in 1 or more newspapers of general circulation in the county or counties concerned;
  2. If a FNSI is issued under subsection (E)(2), the Department shall provide public notice pursuant to A.A.C. R18-1-401(A) that the FNSI is available for public review. The notice shall provide that comments on the FNSI may be submitted to the Department for a period of 30 days from the date of publication of the notice. If no comments are received, the FNSI shall immediately become effective;
  3. If a Notice of Intent is prepared and distributed under subsection (F)(1), the Department shall publish it as a legal notice at least once, in 1 or more newspapers of general circulation in the county or counties concerned;
  4. If a draft EIS is issued under subsection (F)(4), the Department shall provide public notice pursuant to A.A.C. R18-1-401(A) that the draft EIS is available for public review. The notice shall provide that comments on the draft EIS may be submitted to the Department for a period of 30 days from the date of publication of the notice. In addition, if the Department determines that a project may be controversial, the notice shall provide for a general public hearing to receive public comment pursuant to A.A.C. R18-1-401(B);
  5. If the Department reaffirms or revises a decision pursuant to subsection (H), the Department shall provide public

notice of that fact by publishing the notice as a legal notice at least once, in 1 or more newspapers of general circulation in the county or counties concerned; and

6. When public notice is required under this subsection, the Department shall also provide written notice to the applicable Designated Water Quality Management Planning Agency.

**R18-10-109. Application Process**

- A. Governmental units shall apply to the Board for each type of financial assistance on forms provided by the Board. Applications shall be made at times specified by the Board in special mailings or in the Intended Use Plan.
- B. The Board shall determine when an application is complete and correct. In making the determination, the Board shall consider the application form and supporting documents if they comply with R18-10-103.
- C. After a determination has been made that an application is complete and correct pursuant to subsection (B), the Authority may enter into a financial assistance agreement with the applicant. The Authority shall enter into financial assistance agreements consistent with the Priority List and the availability of money in the fund.

**R18-10-110. Federal Requirements**

- A. The Board shall identify Federal requirements applicable to each project pursuant to the Clean Water Act.
- B. If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. The user charge system shall provide that a user discharging pollutants that cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay proportionately for the increased cost. An applicant's user charge system, based on actual or estimated use of wastewater treatment services, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of treatment works within the applicant's service area, based on the user's proportionate contribution to the total wastewater loading from all users or user classes.
- C. After a project is completed, the governmental unit shall use revenue from the project, including the sale of sludges, gases, liquids, crops, or revenue from leases, to offset the costs of operation and maintenance. The governmental unit shall proportionately reduce all user charges.
- D. One or more municipal legislative enactments or other appropriate authority shall incorporate the user charge system. If the project accepts wastewater from other municipalities, the subscribers receiving waste treatment services from the applicant shall adopt user charge systems in accordance with this Section. These user charge systems shall also be incorporated in appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing wastes to the treatment works.
- E. The applicant shall demonstrate the legal, institutional, managerial, and financial capability to ensure adequate construction, operation, and maintenance of the treatment works throughout the applicant's jurisdiction. This demonstration shall include an explanation of the roles and responsibilities of the local governments involved, and the manner in which construction, operation, and maintenance of the facilities will be financed. The applicant shall provide a current estimate of the cost of the facilities, and a calculation of the annual costs per household. It shall also include a written certification signed by the applicant that the applicant has both analyzed the costs and financial impacts of the proposed facilities and has the capability to finance and manage their construction, operation,

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and maintenance in accordance with this Article.

- F. The applicant shall certify that it has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practice relating to or in connection with facilities planning or design work on a wastewater treatment facility project.
- G. First use and equivalency projects shall comply with the provisions of the Civil Rights Act of 1964, P.L. 88-352, and all other applicable federal laws.

**R18-10-111. Project Construction**

- A. Construction of a wastewater treatment facility project shall conform to all of the following requirements:
1. The Department shall not issue an Approval to Construct to an applicant or recipient until all of the following have occurred:
    - a. An on-site inspection by the Department;
    - b. The development by the applicant or recipient of a sludge management use and disposal plan; and
    - c. A review of all set-back requirements by the Department.
  2. Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:
    - a. All easements and rights of way have been obtained;
    - b. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. §§ 41-2501 et seq.; and
    - c. All required approvals and permits have been obtained from the following entities:
      - i. The Department, including the requirements contained in 18 A.A.C. 9; and
      - ii. Applicable federal, state, and local authorities as related to:
        - (1) Leases;
        - (2) Zoning permits;
        - (3) Building permits;
        - (4) Flood plain approvals;
        - (5) Air quality permits; and
        - (6) Solid waste approvals.
  3. During construction of wastewater treatment facilities, the recipient shall:
    - a. Conduct work in compliance with the requirements of 18 A.A.C. 9; and
    - b. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
  4. Upon project completion, all of the following requirements shall be satisfied:
    - a. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 9;
    - b. The recipient shall accept the project in writing;
    - c. Any required operation and maintenance manual shall be completed; and
    - d. As-built plans and specifications shall be submitted to the Department and the recipient.
  5. One year after project completion, the recipient shall certify that the wastewater treatment facility meets design specifications and all effluent limitations. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the wastewater treatment facility does not meet design standards or effluent limits and what will be done to correct the deficiency, together with a schedule

for the corrective actions.

- B. The recipient shall construct a Nonpoint Source project in a manner consistent with the plan which is the basis of the project or as specified in the financial assistance agreement. In addition, the applicant or recipient shall obtain all necessary approvals and permits for any construction requiring approvals and permits.

**R18-10-112. Fund Disbursements and Repayments**

- A. The Authority shall ensure that disbursements from the fund are consistent with the financial assistance agreement and incurred project expenses.
- B. The Authority shall charge a late fee for any loan repayment 30 days past the due date and every 30 days thereafter. The Authority shall refer any loan repayment over 90 days past due to the Office of the Attorney General for appropriate action pursuant to A.R.S. § 49-375(J).
- C. The recipient shall maintain a project account in accordance with generally accepted government accounting standards. After reasonable notice by the Board or EPA, the recipient shall make available any project records reasonably required to determine compliance with the provisions of this Article and Title VI of the Clean Water Act.

**R18-10-113. Fund Administration**

- A. The Board may use up to 4% of all federal capitalization grant awards to pay the reasonable costs of both administering the fund and conducting activities under this Article.
- B. The Board may also require a recipient to pay a proportionate share of the expenses of administering the fund. The recipient shall deposit these payments in an account separate from the fund and shall use them for payment of the reasonable costs of administering the fund in excess of the 4% limitation described in subsection (A). The recipient may also use the payments as a state match.

**R18-10-114. Intended Use Plan and Interest Rate Determinations**

- A. The Board shall publish an Intended Use Plan for each year in which it anticipates that it will provide financial assistance for eligible projects. At a minimum the Intended Use Plan shall identify the projects by eligible political subdivision or eligible entity, name, type of project, type of financial assistance, amount of financial assistance, and interest rates to be charged. The Intended Use Plan shall also identify 1st use and equivalency projects. The Intended Use Plan shall be prepared after providing for public comment and review. When an Intended Use Plan is to be submitted as 1 of the required documents to obtain a grant under Title VI of the Clean Water Act, the Intended Use Plan shall include such additional information as required.
- B. In establishing interest rates for loans made under this Article, the Authority:
1. May use target interest rates in those years when the state match must be obtained by the sale of bonds provided that when target rates are used in an Intended Use Plan, both of the following requirements shall be met:
    - a. The target rates shall be identified as such; and
    - b. Actual rates shall be adopted by the Authority prior to the approval of any loan repayment agreements;
  2. Shall consider the cost of any money used in the fund, prevailing market rates, the recommendations of financial advisors, and fund growth;
  3. Shall not establish a rate which exceeds prevailing market rates for similar types of loans; and
  4. Shall not establish a rate which is less than is needed to operate the fund at cost.

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- pursuant to this Article may file a formal letter of dispute with the Clerk. Within 30 days of receipt of a dispute letter, the Department shall issue a preliminary decision in writing, to be forwarded by certified mail to the party.
- B.** Any party filing a dispute pursuant to subsection (A) that disagrees with a preliminary decision of the Department may file a formal letter of appeal with the Board, provided such letter is received by the Clerk not more than 15 days after the receipt by the party of the preliminary decision.
- C.** The Board shall issue a final decision on issues appealed to it pursuant to subsection (B) not more than 60 days after receipt of the appeal.

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**3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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**Secondary Contact:**

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**4. An explanation of the rule, including the agency's reasons for initiating the rule:**

During the 43rd Legislative Session, House Bill 2304, Ch. 130E, Laws 1997 was passed. The governor signed this bill into law on April 22, 1997. The law became effective April 22, 1997, due to an emergency enactment. This legislation renamed the Wastewater Management Authority of Arizona as the Water Infrastructure Finance Authority of Arizona (WIFA). Prior to this legislation, WIFA operated as a financing organization for wastewater treatment systems and nonpoint source projects. The new Authority now finances public drinking water facilities as well as wastewater facilities.

When a board or agency changes its function, it becomes a new organization. WIFA's purpose for loaning money has not changed, but the recipients of financial assistance and the funding sources have been expanded. This change is accomplished by repealing the Wastewater Management Authority and its rules, and creating a new Chapter.

WIFA has authority to receive and distribute federal funds for wastewater treatment facilities, nonpoint source projects, and drinking water facilities. The new Chapter will be comprised of 4 Articles. Article 1: The definitions and the requirements for any funding that is common to financing any specific type of facility. An applicant must have the legal capability to borrow funds from WIFA (pursuant to both federal and state statute). An applicant must demonstrate financial capability to repay financial assistance. The Board may review an applicant's technical capability to construct, operate, and maintain the funded project. The Board may review an applicant's managerial and institutional capability to ensure the facility can remain in or come into compliance, and the applicant's staff can support the facility. The Board may recommend changes to the project or assist the facility to demonstrate managerial and institutional capability. The Board may review each applicant's readiness to proceed relative to constructing and operating the project. As before in Chapter 10, the Board may determine interest rates. The proposed rules retain existing procedures for disbursements, repayments, and dispute resolution. Additionally, the Board's source of administrative funding is defined.

A description of the contents of each Section is listed below:

**R18-15-101 Definitions.** This Section includes new definitions to reflect the statutory revisions. The new definitions include "Clean Water Revolving Fund" to define the fund for wastewater treatment facilities and nonpoint source projects. "Drinking Water Facilities" is defined relative to Article 3 and state statutes. "Drinking Water Revolving Fund" is defined as the new fund for financing drinking water facilities. Other definitions are amended to reflect the statutory changes and to reference drinking water facilities.

**R18-15-102 Application Process.** This Section describes the general process to apply for financial assistance. It directs applicants to the appropriate Article consistent with the applicant's financial assistance request. Each applicant will follow Article 1 for general procedures, and then follow Article 2, Article 3, or Article 4 as applicable for specific financial assistance requirements.

**R18-15-103 Legal Capability.** This Section enumerates requirements for a facility to legally borrow from WIFA. This Section reflects state law requirements found in A.R.S. Title 9, Title 11, and A.R.S. Title 48.

**R18-15-104 Financial Capability.** This Section outlines the information required by the Board to ensure repayment of the loan. This Section is similar to the Section repealed under Chapter 10.

**R18-15-105 Technical Capability.** This Section describes the type of information reviewed by the Board to ensure an applicant can construct, operate, and maintain the proposed project.

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R18-15-106 Managerial and Institutional Capability. This Section describes the type of information reviewed by the Board to verify the management of the facility. The Board will review the applicant's management capability and the applicant's compliance history. If the Board finds the current facility is not able to manage the proposed facility, then the Board may recommend modifications to the proposed project.

R18-15-107 Readiness to Proceed. This Section defines the levels of an applicant's readiness to proceed with the project. The Board cannot issue funds until the indebtedness (loan) has been authorized. This explanation has been clarified.

R18-15-108 Interest Rate Determinations. This Section explains how the Board determines interest rates. Normally, the Board loans funds around 3.0 to 4.5%. This Section is similar to the Section repealed under Chapter 10.

R18-15-109 Disbursements and Repayments. This Section explains disbursements, late fees, and the requirement for a project account. If a loan repayment is over 90 days past due, it may be referred to the Office of the Attorney General. This Section is similar to the Section repealed under Chapter 10.

R18-15-110 Administration. This Section describes the limitations on the amount and the source of the funding for WIFA. WIFA is a self-supporting board. This Section clarifies authority found in statute. This Section is similar to the Section repealed under Chapter 10.

R18-15-111 Disputes. This Section explains the informal process for challenging the priority or funding of a facility. This process has been in place for the financing of wastewater treatment facilities and nonpoint source projects. This will now apply to the financing of drinking water systems as does the remainder of this Article. This is the same as the repealed Chapter 10.

Article 2 contains the evaluation criteria for the Clean Water Revolving fund which finances wastewater and nonpoint source projects. This Article mirrors Chapter 10, with only the name change from the state revolving fund to the clean water revolving fund, and the Wastewater Management Authority is now titled the Water Infrastructure Finance Authority.

Article 3 contains the evaluation criteria for the Drinking Water Revolving fund which finances drinking water facilities. It describes the types of financial assistance available and the process for distribution of funds to drinking water facilities. Each of the sections within Article 3 are based on sections found within Article 2 which if further patterned after the sections repealed from Chapter 10. The variances in Article 3 from Article 2 reflect the statutory requirements for the Drinking Water Revolving Fund.

R18-13-301. Types of Financial Assistance Available contains the type of financial assistance available as authorized by the Safe Drinking Water Act Amendments of 1996 (SDWA). SDWA authorizes states to loan money, purchase or refinance debt, guarantee or purchase insurance, provide security as a source of repayment.

R18-15-302. Eligibility Requirements for Financial Assistance explains the sections which must be complied with to be eligible for financial assistance. The applicant must comply with Article 1 and demonstrate legal, financial, technical, and managerial and institutional capability, and be ready to proceed with the project.

R18-15-303. Drinking Water Revolving Fund Intended Use Plan describes the process for publishing the annual Intended Use Plan, which lists fundable projects, the amount of financial assistance available, and estimated interest rates. The Intended Use Plan is published for public review and comment before being finalized by the Board.

R18-15-304. Drinking Water Revolving Fund Priority List contains an explanation of the annual project priority list process. This Section uses the criteria found in R18-15-305 and R18-15-306. R18-15-305 describes the priority classes and R18-15-306 contains the ranking criteria. The classes and ranking criteria were arrived at through weekly stakeholder meetings during March and April of 1997. At these meetings, representatives from drinking water facilities or municipalities created the project priority list summarized in this proposed rule. The stakeholders agreed that acute health criteria, i.e. 1 exposure is harmful, should be the highest priority for receipt of financial assistance. This priority scheme is consistent with the SDWA. Class B projects are violations of the drinking water standards where a single exposure is not a severe health threat. Class C projects are upgrades, rehabilitations, or construction of a new facility. Class D is physical, service or management consolidation of water facilities. Class E are projects directed at future growth or refinancing of existing long-term indebtedness. Once the Board classes projects within 1 of the 5 classes, the scoring criteria are applied to each project. As an example, ten projects may be within Class A, but the ranking criteria (R18-15-306) will determine the highest priority within Class A. Assuming the projects are ready to proceed, Class A projects receive financial assistance to Class B projects; Class B before Class C; Class C before Class D; and Class D before Class E.

R18-15-306. Drinking Water Revolving Fund Priority List Ranking Criteria. This Section explains the formula and the point assignment for ranking individual projects. The priority value equals the health criteria points plus the condition of the facilities and sources points, plus the local fiscal capacity points, plus the prior year funding points, plus points assigned for consolidation and regionalization. During the creation of this ranking process, stakeholders classed, scored and ranked eight facilities using the proposed classing and scoring criteria. Stakeholders determined that the priority setting process worked as expected when applied to real facilities.

R18-15-307. Environmental Review. This Section is a streamlined version of the environmental review process described in Article 2 for the Clean Water Revolving Fund. Given the scope of projects expected to be financed through the Drinking Water Revolving Fund, the environmental process will be significantly easier as compared to projects financed through the Clean Water Revolving Fund.

R18-15-308. Project Construction. Consistent with state law for the construction of all drinking water facilities, the Department shall perform an on-site inspection and the applicant shall demonstrate compliance with easements, contracts, approvals, permits, and all applicable federal, state, and local authorities related to leases, zoning permits, building permits, flood plain approvals, air



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quality permits, and solid waste approvals. Construction shall be completed in compliance with 18 A.A.C. 4, Department of Environmental Quality Safe Drinking Water Program. One year after the project is completed, the recipient of funds shall certify to WIFA that the drinking water facility meets design specifications. If the recipient is unable to make this certification, the recipient is required to submit a corrective action plan which must describe the problem, solution, and schedule for corrective action.

R18-15-309. Drinking Water Revolving Fund Requirements. This Section contains requirements for funding found in the SDWA. The Board identifies the Drinking Water Revolving Fund requirements that are applicable to the specific project. The applicant then designs the user charge system, informs the users of this system to ensure the class of users pay their proportionate share of operation, maintenance, and including replacement costs. Each applicant shall certify that it has not violated any laws or acted in an unethical manner related to this project.

Article 4 contains the financial assistance WIFA can provide independent of the clean water and drinking water revolving funds. WIFA is allowed to act as a conduit issuer of bonds on behalf of Arizona local units of government as authorized in the 1997 revisions to A.R.S. §§ 49-371 through 49-383.

R18-15-401 Types of Financial Assistance Available. WIFA may issue water quality bonds for loans and to purchase or refinance local debt obligations of political subdivision. Additionally, the Authority may guarantee or purchase insurance for local obligations for eligible applicants to improve credit market access or reduce interest rates.

R18-15-402 Eligibility Requirements for Financial Assistance. This Section references the sections found in Article 1 that must be complied with in order to receive financial assistance under this Article.

R18-15-403 Environmental Review. If applicable, the Board may require an environmental review as part of the financial assistance award requirements under this Article.

R18-15-404 Project Construction. Consistent with Article 2 and Article 3, all construction related permits must be obtained, and there must be compliance with all federal, state, and local laws. Additionally, 1 year after project completion, the recipient must either certify compliance with the design specifications or defend the non-compliance and provide any necessary corrective action.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not Applicable.

6. The preliminary summary of the economic, small business and consumer impact:

This new Chapter is in response to a statutory change. The Wastewater Management Authority of Arizona (WMA) has been renamed the Water Infrastructure Finance Authority of Arizona (WIFA). The WMA's rules are repealed from 18 A.A.C. 10 and 18 A.A.C. 15 replaces the process for distribution of financial assistance by the WIFA. The purpose for the renaming of the Authority is to reflect state statute revisions as well as the Authority's expanded role.

The WIFA is a self supporting agency. It is supported by the interest income derived from financing activities and by up to 4% of the federal funds granted to WIFA. ADEQ supplies a rule development specialist, an economist, a budget person, and program people for the review and approval of the WIFA rules. The ADEQ expertise is primarily for the rule promulgation. After the rule is effective, there will be on-going support by the ADEQ wastewater and drinking water programs for review and rating of the facilities for inclusion on the priority lists. It is estimated that WIFA support will be different people equivalent to at the most, 1 full time employee. This cost will be paid by the taxpayers from the general fund and the drinking water federal program funding.

WIFA received a state General Fund appropriation of \$3.4 million for fiscal year 1997-98 to match \$16.9 million in federal contributions. Additionally, from the year 1997 through 2003, WIFA will receive additional federal and state contributions to capitalize the Drinking Water Revolving Fund. The use of the State's General Fund is offset by the savings to rate payers as the result of subsidized interest rates for basic, community infrastructure.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	Lynn A. Keeling on behalf of the Board of Directors of the Water Infrastructure Finance Authority of Arizona
Address:	Department of Environmental Quality 3033 North Central Avenue Phoenix, Arizona 85012
Telephone:	(602) 207-2223, (800) 234-5677 ext 2223 (AZ only)
Fax:	(602) 207-2251
TTD:	(602) 207-4829



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8. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Oral proceedings will be held as follows:

**TUCSON, ARIZONA**

Date: June 30, 1997

Time: 9 a.m.

Location: Pima County of Governments  
PAG Conference Room  
177 North Church Avenue, Suite 405  
Tucson, Arizona 85701

Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Karen Bazinet at (520) 792-1093.

**YUMA, ARIZONA**

Date: July 1, 1997

Time: 2:30 p.m.

Location: Yuma County Main Library  
Downstairs Conference Room  
350 3rd Avenue  
Yuma, Arizona 85364

Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Penney Ahlstrom at (520) 782-1871, ext. 101.

**FLAGSTAFF, ARIZONA**

Date: July 2, 1997

Time: 8:30 a.m.

Location: City of Flagstaff  
City Council Chambers  
211 West Aspen  
Flagstaff, Arizona 86001

Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Lee Cain (520) 779-7660.

**PHOENIX, ARIZONA**

Date: July 2, 1997

Time: 2:30 p.m.

Location: Department of Environmental Quality  
Public Meeting Room  
3033 North Central Avenue  
Phoenix, Arizona 85012

Contact: Greg Swartz at (602) 207-4707

If you need special assistance please contact Michael Scholnick (520) 207-4795.

These proceedings will include comment on the repeal of Chapter 10, the Wastewater Management Authority of Arizona.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.  
Not applicable.
10. Incorporation by reference and their location in the rules.  
Not applicable.
11. The full text of the rules follows:

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**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA**

**ARTICLE 1. WATER INFRASTRUCTURE FINANCE  
AUTHORITY: MANAGEMENT**

- R18-15-101. Definitions
- R18-15-102. Application Process
- R18-15-103. Legal Capacity
- R18-15-104. Financial Capability
- R18-15-105. Technical Capability
- R18-15-106. Managerial and Institutional Capability
- R18-15-107. Readiness to Proceed
- R18-15-108. Interest Rate Determinations
- R18-15-109. Disbursements and Repayments
- R18-15-110. Administration
- R18-15-111. Disputes

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

- R18-15-201. Types of Financial Assistance Available
- R18-15-202. Eligibility Requirements for Financial Assistance
- R18-15-203. Clean Water Revolving Fund Intended Use Plan
- R18-15-204. Clean Water Revolving Fund Priority List
- R18-15-205. Clean Water Revolving Fund Priority Classes
- R18-15-206. Clean Water Revolving Fund Priority List Ranking Criteria
- R18-15-207. Environmental Review
- R18-15-208. Project Construction
- R18-15-209. Clean Water Revolving Fund Requirements

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

- R18-15-301. Types of Financial Assistance Available
- R18-15-302. Eligibility Requirements for Financial Assistance
- R18-15-303. Drinking Water Revolving Fund Intended Use Plan
- R18-15-304. Drinking Water Revolving Fund Priority List
- R18-15-305. Drinking Water Revolving Fund Priority Classes
- R18-15-306. Drinking Water Revolving Fund Priority List Ranking Criteria
- R18-15-307. Environmental Review
- R18-15-308. Project Construction
- R18-15-309. Drinking Water Revolving Fund Requirements

**ARTICLE 4. WATER INFRASTRUCTURE FINANCE  
AUTHORITY OF ARIZONA: OTHER FINANCIAL  
ASSISTANCE**

- R18-15-401. Types of Financial Assistance Available
- R18-15-402. Eligibility Requirements for Financial Assistance
- R18-15-403. Environmental Review
- R18-15-404. Project Construction

**ARTICLE 1. WATER INFRASTRUCTURE FINANCE  
AUTHORITY: MANAGEMENT**

**R18-15-101. Definitions**

In addition to the definitions prescribed in A.R.S. §§ 49-101, 49-201, and 49-371, the terms of this Article, unless otherwise specified, have the following meanings:

1. "Applicant" means a governmental unit or a drinking water facility that is seeking financial assistance from the authority pursuant to the provisions of this Chapter.
2. "Application" means a request for financial assistance submitted to the Board, by an applicant.

3. "Approval to Construct" means the written approval issued by the Department to an applicant or recipient indicating that project construction may begin.
4. "Authority" means the Water Infrastructure Finance Authority of Arizona pursuant to A.R.S. § 49-371.
5. "Board" means the board of directors of the authority pursuant to A.R.S. § 49-371.
6. "Certified Water Quality Management Plan" means a plan prepared by the designated Water Quality Management Planning Agency, pursuant to § 208 of the Clean Water Act, and certified by the Governor.
7. "Clean Water Revolving Fund" means the fund pursuant to A.R.S. § 49-374.
8. "Clerk" means the Clerk of the Board of the Water Infrastructure Finance Authority of Arizona.
9. "Collector" means a network of pipes or sewers used to collect and transport wastewater to a treatment plant or disposal system.
10. "Construction" means, for a project, any placement, assembly, or installation of a building, structure, equipment, treatment process, collection lines, distribution lines, pumps, or related drinking water or water pollution control activity.
11. "Design life" means the period during which a treatment works or drinking water facility is planned and designed to be operated.
12. "Designated Water Quality Management Planning Agency" means a single representative organization designated by the Governor pursuant to § 208 of the Clean Water Act to develop a Certified Water Quality Management Plan for the area.
13. "Department" means the Department of Environmental Quality.
14. "Disbursement" means the transfer of cash from the fund to a recipient.
15. "Drinking Water Facility" means a facility pursuant to A.R.S. 49-371.
16. "Drinking Water Revolving Fund" means the fund pursuant to A.R.S. 49-374.01.
17. "EPA" means the United States Environmental Protection Agency and its successor.
18. "Equivalency Project" means a wastewater treatment facility under § 212 of the Clean Water Act constructed in whole or in part before October 1, 1994, with funds equaling the amount of the federal capitalization grant.
19. "Federal capitalization grant" means the assistance agreement by which the EPA obligates and awards funds allotted to the Authority for purposes of capitalizing the Clean Water Revolving Fund and the Drinking Water Revolving Fund.
20. "Financial assistance" means the use of monies for any of the purposes identified in R18-15-201, R18-15-301, and R18-15-401.
21. "Financial assistance agreement" means any agreement, including a loan repayment agreement, that defines the terms for financial assistance given pursuant to this Article.
22. "First Use Project" means a project identified by EPA and the state as part of the National Municipal Policy List for the state.

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23. "Governmental unit" means a political subdivision or Indian tribe that may receive financial assistance from the Authority pursuant to A.R.S. § 49-373.
24. "Infiltration" means water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes.
25. "Intended Use Plan" means the document prepared by the Authority identifying the intended uses of Clean Water Revolving Fund and Drinking Water Revolving Fund capitalization grants pursuant to R18-15-203 and R18-15-303.
26. "Interceptor" means a sewer which is designed for 1 or more of the following purposes:
  - a. To intercept wastewater from a final point in a collector and convey such wastes directly to a treatment facility or another interceptor;
  - b. To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector or interceptor for conveyance to a treatment plant;
  - c. To transport wastewater from 1 or more municipal collectors to another municipality or to a regional plant for treatment;
  - d. To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.
27. "Nonpoint Source Program" means Arizona's Nonpoint Source Program, approved by EPA under § 319 of the Clean Water Act for controlling pollution from nonpoint sources.
28. "Priority List" means the ranking of projects developed by the Board pursuant to R18-15-204 and R18-15-304.
29. "Project" means any distinguishable segment or segments of a wastewater treatment facility, drinking water facility or the Nonpoint Source Program which can be bid separately and for which financial assistance is being requested or provided.
30. "Project completion" means the date, as determined by the Authority, after consultation with the Department, applicant or recipient, that operation of the project is initiated or is capable of being initiated, whichever occurs 1st.
31. "Recipient" means an applicant who has entered into a financial assistance agreement with the Authority.
32. "Replacement" means obtaining and installing equipment or accessories which are necessary during the design and operation of the drinking water and wastewater infrastructure to maintain the capacity and performance for which such infrastructure were designed and constructed.
33. "Regulatory authority" means the Department, EPA, the Department of Health Services, a county, city, or other local health department, a county environmental agency, or a sanitary district.
34. "State match" means the monies that may be used to meet the requirements of § 602(b)(2) of the Clean Water Act and 1452(e) of the Safe Drinking Water Act.
35. "Treatment works" means any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes used to implement § 201 of the Clean Water Act, or necessary to recycle or reuse water over the design life of the works.
36. "User charge" means a charge levied on users of drinking water and wastewater infrastructure.

**R18-15-102. Application Process**

- A. Eligible financial assistance recipients shall apply to the Authority for each type of financial assistance on forms provided by the Authority. After the Board determines that an application is complete and correct, the Authority may enter into a financial assistance agreement with the applicant.
- B. An applicant seeking Clean Water Revolving Fund financial assistance shall apply for financial assistance pursuant to Articles 1 and 2 of this Chapter.
- C. An applicant seeking Drinking Water Revolving Fund financial assistance shall apply for financial assistance pursuant to Articles 1 and 3 of this Chapter.
- D. An applicant seeking other types of financial assistance available through the Water Infrastructure Finance Authority shall apply for financial assistance pursuant to Articles 1 and 4 of this Chapter.

**R18-15-103. Legal Capability**

- A. The applicant shall demonstrate that it is legally authorized to enter into long-term indebtedness and legally authorized to pledge the dedicated source of repayment as defined in R18-15-104.
- B. As part of the Board's review of the applicant's legal capability and if requested by the Board:
  1. If the applicant is a political subdivision and the long-term indebtedness is authorized through an election, the applicant shall provide all the following:
    - a. One copy of the sample election ballot and election pamphlet 45 days prior to the election;
    - b. One copy of the governing body resolution calling for the election 45 days prior to the election;
    - c. One copy of the election results following the election;
    - d. As applicable, an attorney's opinion on the current legal status of the applicant and the applicant's ability to enter into the financial assistance agreement.
  2. If the applicant is a political subdivision and the long-term indebtedness is authorized through a special taxing district creation process, the applicant shall provide all the following:
    - a. One copy of all draft documentation, notices, petitions, and related information prior to each step in the special taxing district creation process;
    - b. One copy of all final documentation, notices, petitions, and related information at the conclusion of each step in the special taxing district creation process;
    - c. As applicable, an attorney's opinion on the current legal status of the applicant and the applicant's ability to enter into the financial assistance agreement.
  3. If the applicant is regulated by the Arizona Corporation Commission, the applicant shall provide all the following:
    - a. Evidence that the financial assistance from the Authority to the applicant has been authorized by the Arizona Corporation Commission.
    - b. As applicable, an attorney's opinion on the current legal status of the applicant and the applicant's ability to enter into the financial assistance agreement.
  4. All other applicants who are not included in subsections (B)(1), (2), and (3), shall demonstrate that a majority of the beneficiaries consent to the terms and conditions of the financial assistance. The Board will assist each applicant to devise a process by which this consent is documented.

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- C. Based on the Board's determination of the applicant's legal capability, the Board may recommend modifications to the proposed project or the Board may recommend modifications to the applicant's legal structure and organization.

**R18-15-104. Financial Capability**

- A. The applicant shall identify the dedicated revenue source of repayment for the financial assistance. When determining an applicant's financial capability, the Board shall consider all the following:
1. The applicant's collections or receipt of the dedicated revenue source for the previous 5 fiscal years.
  2. An estimate of the applicant's collection or receipt of the dedicated revenue source for the current fiscal year.
  3. A projection of the applicant's collection or receipt of the dedicated revenue source in the next 5 fiscal years.
- B. The applicant shall provide an estimate of the project costs, including applicable planning, design, and construction costs.
- C. The applicant shall provide an estimated schedule of required disbursements of the financial assistance.
- D. As part of the Board's review of the applicant's financial capability and if requested by the Board, the applicant shall provide the following information:
1. One copy of each financial statement, audit, or comprehensive financial statement from the previous 5 fiscal years;
  2. One copy of each budget, business plan, management plan or financial plan from the previous 3 fiscal years and from the current fiscal year;
  3. One copy of the proposed budget, business plan, management plan or financial plan for the next fiscal year;
  4. A summary of current rates and charges including, as applicable, any resolutions passed by the governing body of a political subdivision;
  5. The most recent version of the applicant's capital improvement plan or other plan outlining proposed infrastructure investments;
  6. Copies of documentation relating to outstanding indebtedness including official statements, financial assistance agreements, and amortization schedules;
  7. The number of connections to be served by the proposed project.
- E. Based on the Board's determination of the applicant's financial capability and the Board's review of the estimated costs of the project, the Board may recommend modifications to the proposed project or the Board may recommend modifications to the dedicated revenue source.
- F. As applicable, political subdivisions seeking financial assistance shall submit sample election ballots or sample petitions prior to the election authorizing the financial assistance or prior to the completion of proceedings.

**R18-15-105. Technical Capability**

- A. The Board shall review each applicant's technical capability to construct, operate, and maintain the proposed project.
- B. As part of the Board's review of the applicant's technical capability and if requested by the Board, the applicant shall provide following information:
1. One copy of each feasibility study, engineering report, design memorandum, set of plans and specifications and other technical documentation related to the proposed project;
  2. Copies of resumes, biographies or related information of the certified operators, system employees, or contractors employed by the applicant to operate and maintain the existing facilities and the proposed project;
  3. A description of the service territory including maps;

4. A description of the existing physical facilities.
- C. As part of the Board's review of the applicant's technical capability, the Board may consider either of the following:
1. Recent compliance history of the applicant relative, as applicable, to the Clean Water Act, Safe Drinking Water Act, related Arizona statutes, and related rules, regulations, and policies.
  2. The proposed project and the applicant's ability to operate and maintain the project once completed.
- D. Based on the Board's determination of the applicant's technical capability and the Board's review of the proposed project, the Board may recommend modifications to the proposed project.

**R18-15-106. Managerial and Institutional Capability**

- A. The Board shall review each applicant's capability to manage the proposed project.
- B. As part of the Board's review of the applicant's managerial and institutional capability and if requested by the Board, the applicant shall provide the following information:
1. As applicable, copies of resumes, biographies, years of experience, term of office, and related information of the owners, managers, chief elected officials, and governing body members connected to the applicant;
  2. A list of professional and outside services connected to the applicant and the proposed project.
- C. As part of the Board's review of the applicant's managerial and institutional capability, the Board may consider either of the following:
1. Recent compliance history of the applicant relative, as applicable, to the Clean Water Act, Safe Drinking Water Act, related Arizona statutes, and related rules, regulations, and policies;
  2. The proposed project and the applicant's ability to manage the project once completed.
- D. Based on the Board's determination of the applicant's managerial capability and the Board's review of the proposed project, the Board may recommend modifications to the proposed project.

**R18-15-107. Readiness to Proceed**

- A. The Board shall review each applicant's readiness to proceed with the proposed project.
- B. As part of the Board's review of the applicant's readiness to proceed, the Board shall consider all the following levels of readiness to proceed stated below (the higher the level, the more ready to proceed):
1. Level 1 -- The applicant has received authorization to enter into long-term indebtedness.
  2. Level 2 -- The Board has determined the applicant's:
    - a. Legal capability pursuant to R18-15-103.
    - b. Financial capability pursuant to R18-15-104.
    - c. Technical capability pursuant to R18-15-105.
    - d. Managerial and institutional capability pursuant to R18-15-106.
    - e. The applicant has completed Level 1 of readiness to proceed.
  3. Level 3 --
    - a. The plans and specifications have been reviewed and approved by the Department or the Department's designee.
    - b. The applicant has completed Levels 1 and 2 of readiness to proceed.
  4. Level 4 --
    - a. The applicant is in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities.

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- b. The applicant has completed Levels 1, 2, and 3 of readiness to proceed.
- 5. Level 5 --
  - a. The applicant has obtained all applicable permits and approvals required by federal, state, and local authorities.
  - b. The applicant has completed Levels 1, 2, 3, and 4 of readiness to proceed.

- 6. Level 6 --
  - a. The applicant has received and accepted bids for the project or, with prior approval from the Board, the applicant has commenced construction.
  - b. The applicant has completed Levels 1, 2, 3, 4, and 5 of readiness to proceed.

- C. As applicable, until the environmental review process described in R18-15-207, R18-15-307, or R18-15-403 is completed, the Board shall limit payments of financial assistance to pre-construction activity.
- D. Until all applicable permits and approvals required by federal, state, and local authorities are obtained, the Board shall limit payments of financial assistance to pre-construction activity.

**R18-15-108. Interest Rate Determinations**

- A. In establishing interest rates for financial assistance made under this Chapter, the Authority:
  - 1. Shall consider the interest rate on bonds issued by the Authority, prevailing market rates, the recommendations of financial advisors, equity growth, and asset growth;
  - 2. Shall not establish a rate which exceeds prevailing market rates for similar types of financial assistance;
  - 3. Shall not establish a rate which is less than is needed to retire the Authority's bonds.
- B. As required, interest rate determinations will be made on a loan by loan basis as defined by Authority policy. Such policy shall be adopted and amended as required by the Board at public meetings of the Board.

**R18-15-109. Disbursements and Repayments**

- A. The Authority shall ensure that disbursements are consistent with the financial assistance agreement and incurred project expenses.
- B. The Authority shall charge a late fee for any loan repayment 30 days past the due date and every 30 days thereafter. The authority shall refer any loan repayment over 90 days past due to the Office of the Attorney General for appropriate action pursuant to A.R.S. § 49-375(I).
- C. The recipient shall maintain a project account in accordance with generally accepted government accounting standards. After reasonable notice by the Board, the recipient shall make available any project records reasonably required to determine compliance with the provisions of this Article and the financial assistance agreement.

**R18-15-110. Administration**

- A. The Board may use up to 4% of federal capitalization grant awards to pay the reasonable costs of administering the Clean Water Revolving Fund and the Drinking Water Revolving Fund.
- B. The Board may also require a recipient to pay a proportionate share of the expenses of the Authority's operating costs.

**R18-15-111. Disputes**

- A. Any party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken pursuant to this Chapter may file a formal letter of dispute with the Clerk. Within 30 days of receipt of a dispute letter, the Authority shall issue a preliminary decision in writing, to be forwarded by certified mail to the party.

- B. Any party filing a dispute pursuant to subsection (A) that disagrees with a preliminary decision of the Authority may file a formal letter of appeal with the Board, provided such letter is received by the Clerk not more than 15 days after the receipt by the party of the preliminary decision.
- C. The Board shall issue a final decision on issues appealed to it pursuant to subsection (B) not more than 60 days after receipt of the appeal.

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

**R18-15-201. Types of Financial Assistance Available.**

- A. The Authority may use the Clean Water Revolving Fund for any of the following purposes:
  - 1. Financial assistance, which includes any 1 of the following:
    - a. Loans consistent with § 603(d)(1) of the Clean Water Act;
    - b. The purchase or refinance of local debt obligations which were incurred after March 7, 1985, if building began after that date;
    - c. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
    - d. Security as a source of repayment of principal and interest on bonds issued by the Authority provided that the net proceeds of the bonds are deposited in the fund;
    - e. Guarantees of debt obligations by governmental units which are issued to finance eligible projects.
  - 2. Investments to earn interest to be deposited into the fund.
  - 3. Payments of costs to administer the fund.
- B. The Board shall describe projects and proposed financial assistance in the Clean Water Revolving Fund Intended Use Plan, developed pursuant to R18-15-203.

**R18-15-202. Eligibility Requirements for Financial Assistance**

- A. To be eligible to receive financial assistance an applicant shall propose a project for either of the following purposes:
  - 1. The planning, design, construction, or refinancing of treatment works which are all or part of a wastewater treatment facility owned by a governmental unit.
  - 2. Water pollution control and water quality projects which are not included in subsection (A)(1).
- B. A project eligible under subsection (A) shall also meet all of the following applicable requirements prior to receiving financial assistance:
  - 1. The project shall appear on the Clean Water Revolving Fund Priority List developed pursuant to R18-15-204.
  - 2. The applicant shall demonstrate legal capability pursuant to R18-15-103.
  - 3. The applicant shall demonstrate financial capability pursuant to R18-15-104.
  - 4. The applicant shall demonstrate technical capability pursuant to R18-15-105.
  - 5. The applicant shall demonstrate managerial and institutional capability pursuant to R18-15-106.
  - 6. The applicant shall demonstrate readiness to proceed pursuant to R18-15-107.
  - 7. The applicant shall obtain or be in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities.
  - 8. The applicant shall ensure that the project is consistent with the Certified Water Quality Management Plan.
  - 9. As applicable for nonpoint source projects, the applicant shall ensure that the project is consistent with § 319 and Title VI of the Clean Water Act.

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- D. The Board shall provide financial assistance to eligible governmental units for proposed projects in priority order according to the priority list developed pursuant to R18-15-204. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Clean Water Revolving Fund Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Clean Water Revolving Fund Priority List in rank order that is ready to accept financial assistance.

**R18-15-203. Clean Water Revolving Fund Intended Use Plan.** The Board shall publish an Intended Use Plan for each year in which it anticipates that it will provide financial assistance for eligible projects. At a minimum the Intended Use Plan shall identify the projects by eligible applicant, project name, type of project, type of financial assistance, amount of financial assistance, and estimated interest rates to be charged. The Intended Use Plan shall also identify first use and equivalency projects. As applicable, the Intended Use Plan shall be prepared after providing for public comment and review. When an Intended Use Plan is to be submitted as first of the required documents to obtain a grant under Title VI of the Clean Water Act, the Intended Use Plan shall include such additional information as required.

**R18-15-204. Clean Water Revolving Fund Priority List**

- A. Each year the Board shall adopt the Priority List for the next year. The Board shall not adopt a new list for years where funds are not adequate to assist any projects.
- B. When the Priority List is required pursuant to subsection (A), the Board shall rank the projects by priority class, priority points, and year.
- C. Applicants, desiring placement on the Priority List, shall make their request for placement of 1 or more proposed projects on or before a date specified by the Board. When requesting placement on the Priority List, an applicant shall submit information within an application format specified by the Board.
- D. The Board shall prepare a draft Priority List. In developing a draft Priority List, the Board shall consider all requests submitted under subsection (C), all requests made by regulatory authorities, all plans prepared pursuant to the Clean Water Act, and the most recently adopted Priority List.
- E. The Board shall hold a public meeting to receive comments on the draft Priority List. The Board shall publish a notice of the public meeting in newspapers statewide at least 21 days prior to the meeting date and make copies of the draft Priority List available to the public at least 14 days prior to the meeting date.
- F. The Board shall consider all comments submitted in writing prior to the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but prior to the close of the written comment period. The Board shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. The Board shall also consider the criteria identified in subsection (C). The Board shall summarize all of the comments received, prepare responses, and adopt the Priority List to be used to administer the Clean Water Revolving Fund during the following fiscal year.
- G. The Board shall make additions or modifications to the Priority List whenever any 1 of the following conditions are met:
  1. The project meets the criteria for Priority Class A specified in R18-15-205(B).
  2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects or needed to support financial arrangements made to sell bonds for the state match.
  3. The additions or modifications are made by the Board at a public meeting.
- H. After an opportunity for public comment at a public meeting, the Board may remove a project from the Priority List under any 1 of the following circumstances:
  1. The project has received all financial assistance from the fund requested by the applicant.
  2. The project has been financed with long-term indebtedness from another source.
  3. The project is no longer an eligible project.
  4. The applicant requests removal.
- I. The Board shall retain a project on the Priority List in its assigned priority ranking if it is bypassed pursuant to R18-15-202(D).

**R18-15-205. Clean Water Revolving Fund Priority Classes**

- A. The Board shall evaluate each project on the Priority List and place it into a priority class. The Board may place major portions of a project into different priority classes. The Board shall consider separation of a project into different priority classes when requested by the applicant or when the Board determines that available funds are inadequate to provide assistance to projects critical to the public health or to water quality. The Board may re-evaluate project priority classes under R18-15-204(G) when supported by information such as facility plans, feasibility studies, enforcement actions, and environmental reviews conducted under R18-15-207. If the Board determines that the problem being addressed by a project can be corrected by proper operation and maintenance of existing facilities, the project is ineligible for financial assistance.
- B. Class A -- The Board may designate a project as Priority Class A if both the following conditions exist:
  1. The goal of the project is to eliminate either of the following:
    - a. An environmental nuisance as defined in A.R.S. § 49-141.
    - b. A public health hazard declared by a regulatory authority.
  2. Corrective action or mitigation measures have been initiated as evidenced by 1 of the following:
    - a. An administrative order issued by a regulatory authority;
    - b. A court order or decision;
    - c. A voluntary compliance agreement with a regulatory authority;
    - d. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development;
    - e. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- C. Class A: Continuing Construction Projects -- In addition to subsection (B), the Board may designate a project as Priority Class A if the project received funding in a prior fiscal year, the Board entered into a multi-fiscal year funding commitment with the applicant, and the project received at least 20 points under R18-15-206(H).
- D. Class B -- The Board may designate a project as Priority Class B if the goal of the project is to eliminate a violation of water quality standards documented by official reports, data, or



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findings of a regulatory authority and corrective action or mitigation measures have been initiated as evidenced by 1 of the following:

1. An administrative order issued by a regulatory authority.
  2. A court order or decision;
  3. A voluntary compliance agreement with a regulatory authority;
  4. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development;
  5. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- E. Class C -- The Board may designate a project as Priority Class C if the goal of the project is to correct water quality which violates applicable permit requirements. The Board shall ensure that the violations are documented by required or special monitoring reports which confirm that the discharge limits for a parameter were exceeded either 3 consecutive months during the past year or any 4 months during the past year.
- F. Class D -- The Board may designate a project as Priority Class D if any 1 of the following conditions exists:
1. The project will provide capacity required to serve existing needs.
  2. The project is designed for wastewater reuse, to conserve water, or to recharge wastewater.
  3. The project is necessary to remedy interceptors which are overloaded.
- G. Class E -- The Board may designate a project which does not receive a designation pursuant to subsections (B) through (F) as Priority Class E, if the project is for future growth only or if the project has been financed from another source of long-term indebtedness.

**R18-15-206. Clean Water Revolving Fund Priority List Ranking Criteria**

- A. The Board shall rank projects within priority classes using priority values obtained from the following formula:

$PV = VF + TD + CL + CW + CI + LFC$  where:

PV = Priority Value

VF = Violation Factor

TD = Treatment and Disposal

CL = Collection Lines

CW = Classification of Waters

CI = Conservation Index

LFC = Local Fiscal Capacity

PYF = Prior Year Funding

CR = Consolidation and Regionalization

- B. Violation Factor (VF) -- Whenever the Board determines that a project seeks to correct a violation of a water quality standard or a violation of a condition contained in a valid water quality permit issued by a regulatory authority, the Board shall award VF points. The Board shall use documentation requirements specified under Priority Classes A and B as contained in R18-15-205(B) and (D) to assign VF points. VF points shall be awarded as follows up to a maximum of 100 points:
1. 40 points for nitrates, disease organisms or indicators, or conditions which create a threat to an endangered species.
  2. 30 points for pathogens, heavy metals, and Volatile Organic Compounds (VOC's).
  3. 20 points for Biochemical Oxygen Demand (BOD), Suspended Solids, or Phosphates.
  4. 10 points for pH, Turbidity, or Temperature.

- C. Treatment and Disposal (TD) -- If an applicant is seeking financial assistance to construct, upgrade, or rehabilitate a treatment or disposal process, the Board shall award TD points up to a maximum of 30 points with only 1 set of points awarded as follows:

1. 30 points to provide additional treatment capacity to meet existing need;
2. 30 points to construct new treatment capacity for an unsewered area;
3. 25 points to provide additional disposal capacity;
4. 20 points to upgrade treatment facilities to more stringent standards;
5. 15 points to which will relieve existing design inadequacies;
6. 10 points for projects which will resolve existing operation and maintenance violations;
7. 5 points for projects which will expand treatment capacity to accommodate future growth.

- D. Collection Lines (CL) -- If an applicant is seeking financial assistance for a collection line project, the Board shall award CL points up to a maximum of 30 points with only 1 set of points awarded as follows:

1. 30 points to extend service to an existing unsewered area where a documented water quality standard violation exists;
2. 25 points to repair, rehabilitate or replace existing collection lines;
3. 20 points to extend service to an existing unsewered area.
4. 15 points to replace collection lines to accommodate existing growth;
5. 5 points to install new collection lines to accommodate future growth.

- E. Classification of Waters (CW) -- The Board shall award points for either surface water or groundwater categories but not both. The most stringent protected use within each category shall be the sole determiner of the CW points. CW points are awarded as follows up to a maximum of 30 points:

1. For surface water, CW points shall be awarded for discharges into a water body assigned 1 of the following protected use classifications under A.A.C. R18-11-101:
  - a. 30 points for "full body contact" or "domestic water source." For purposes of this subsection, a project that is not within either of those classifications may receive 30 points if the discharge is into a water body classified as a "unique water" defined in A.A.C. R18-11-101.
  - b. 20 points for "aquatic and wildlife -- (cold water fishery)".
  - c. 15 points for "aquatic and wildlife" that is not a cold water fishery.
  - d. 10 points for "incidental human contact".
2. For groundwater, CW points shall equal 30 points for discharges into an aquifer.

- F. Conservation Index -- The Board shall award Conservation Index points as follows:

1. 30 points if the project will replace an existing groundwater use by reclaiming, reusing, or recharging at least 51% of treated wastewater consistent with state law;
2. 15 points if the project will productively recycle wastewater constituents or recover energy;
3. 0 points if the project will not reclaim, reuse, or recharge wastewater.

- G. Local Fiscal Capacity (LFC) -- The Board shall award LFC points up to a maximum of 100 points as follows:

1. Median Household Income (MHI) -- The Board shall divide the MHI from the area served by the applicant by



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the state's MHI (Service Area MHI/State MHI) to award points as follows:

- a. 40 points if the area's MHI is less than 25% of the State's MHI.
  - b. 30 points if the area's MHI is between 25% and 50% of the State's MHI.
  - c. 20 points if the area's MHI is between 51% and 75% of the State's MHI.
  - d. 10 points if the area's MHI is between 76% and 100% of the State's MHI.
  - e. 0 points if the area's MHI is more than 100% of the State's MHI.
2. User Fees -- The Board shall divide the applicant's proposed user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
- a. 20 points if the rates are more than 2% of the area's MHI.
  - b. 10 points if the rates are between 1% and 2% of the area's MHI.
  - c. 0 points if the rates are less than 1% of the area's MHI.
3. Investment -- The Board shall divide existing indebtedness, existing investments, and proposed indebtedness by service area's MHI (Investment/Service Area MHI) to award points based as follows:
- a. 20 points if the existing and proposed investment is more than 1% of the area's MHI.
  - b. 10 points if the existing and proposed investment is between .5% and 1% of the area's MHI.
  - c. 0 points if the existing and proposed investment is less than .5% of MHI.
4. Cost Effectiveness (CE) -- The Board shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award only 1 of the following set of points awarded:
- a. 20 points if CE is less than \$2,500 per benefitting connection.
  - b. 10 points if CE is between \$2,500 and \$5,000 per benefitting connection.
  - c. 0 points if CE is more than \$5,000 per benefitting connection.
- H. Prior Year Funding (PYF) -- The Board shall award PYF points up to a maximum of 30 points with only 1 of the following set of points awarded:
1. 30 points if the applicant requests additional financial assistance for a multi-year construction project which received financial assistance from the Authority in a previous fiscal year.
  2. 20 points if the applicant requests additional financial assistance to offset actual costs or justified overruns.
  3. 10 points if the applicant requests financial assistance to construct a project which received planning and design financial assistance from the Authority in a previous fiscal year.
  4. -10 points if the applicant requests financial assistance to offset cost overruns.
- I. Consolidation & Regionalization (CR) -- The Board shall award CR points up to a maximum of 50 points as follows:
1. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
  2. 20 points if the applicant is extending service to existing areas currently served by another facility.
  3. 5 points if the applicant is consolidating the operations of existing multiple facilities.

4. 5 points if the applicant is consolidating the ownership of existing multiple facilities.

- J. The Board may use the most recent United States census data to determine the applicant's and the state's median household income. If the Board or the applicant determines that this data is insufficient, an income survey can be conducted of the applicant's service area by a reliable impartial source.

**R18-15-207. Environmental Review.**

- A. If applicable, the Authority shall conduct an environmental review pursuant to this Section for the design or construction of treatment works in accordance with applicable federal and state law. As part of the application process, the Authority shall provide information on conducting an environmental review consistent with the Clean Water Act and A.R.S. Title 49.
- B. An applicant may request, in writing, a categorical exclusion. If the Authority determines that a categorical exclusion is warranted under this subsection, the project is exempt from the requirement of this Section.
1. The Authority shall grant an exclusion if existing information and documents demonstrate that the project qualifies under 1 of the following categories:
    - a. Any project which is directed towards rehabilitation of existing facilities, functional replacement of equipment, or the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility.
    - b. Any project in sewerer communities which is for minor upgrading and minor expansion of existing treatment works.
    - c. Any project in unsewered communities where on-site technologies are proposed.
- C. The Authority shall require the applicant to prepare an Environmental Information Document (EID) if the project falls under any of the following categories:
1. The project will create a new, or relocate an existing, discharge to surface or ground waters.
  2. The project will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters.
  3. The project is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions.
  4. The project is known or expected to directly or indirectly affect cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones; or other resource areas.
  5. The project is known or expected to cause significant public controversy.
  6. The project is known or expected not to be cost effective.
- D. As required by subsection B, the EID shall be of sufficient scope to assist in the development of an environmental assessment (EA) under subsection (D).
- E. The EA may be conducted by the Authority or by the applicant under the supervision of the Authority and shall include consideration of all of the following factors:
1. For the delineated planning area, the existing environmental conditions relevant either to the analysis of alternatives or to determining the environmental impacts of the proposed project.
  2. The relevant future environmental conditions of the delineated planning area, including the alternative of no action.

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3. The purpose and need for the project in the planning area, including the existing public health or water quality problems and their severity and extent.
  4. A comparative analysis of feasible alternatives, including no action, throughout the project area. The comparison shall focus on the beneficial and adverse consequences, both direct and indirect, on the existing environment, the future environment, and individual sensitive environmental issues that are identified by project management or through public participation conducted under this Section. The comparison shall also include an analysis of all of the following factors:
    - a. Land use and other social parameters, including recreation and open-space considerations.
    - b. Consistency with population projects used to develop state implementation plans under the Clean Air Act, 42 U.S.C. 7401 - 7626.
    - c. Cumulative impacts, including anticipated community growth within the project study area.
    - d. Other anticipated public works projects, including coordination with such projects.
  5. A full range of relevant impacts of the project, including any irreversible or irretrievable commitments of resources to the project and the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.
  6. Proposed structural and nonstructural measures to mitigate or eliminate adverse effects on the human and natural environments. Among other measures, structural provisions include changes in project design, size, and location; and nonstructural provisions include staging facilities, monitoring and enforcement of environmental rules, and local commitments to develop and enforce land use rules.
- F. Upon completion of the EA required by subsection (D), the Authority shall determine whether an environmental impact statement (EIS) is necessary.
1. The Authority shall prepare an EIS pursuant to subsection (F) if any of the following conditions exist.
    - a. The project is known or expected to have a significant adverse effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions.
    - b. The project is known or expected to directly or indirectly adversely affect recognized cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones, or other resource areas.
    - c. The project is likely to cause significant public controversy or is known or expected not to be cost effective.
    - d. The project discharges into a body of water where the present protected or designated use is not being met or is being challenged as inadequate to protect existing uses, and the discharge will not be of sufficient quality or quantity to meet the requirements of these uses.
  2. If the Authority determines pursuant to subsection (G)(1) of this subsection that an EIS is not necessary, the Authority shall issue a finding of no significant impact (FNSI).
- G. An EIS required by subsection (F)(1) shall be prepared as follows:
1. The Authority shall first prepare and distribute a Notice of Intent.
  2. As soon as possible after the publication of the Notice of Intent required by subsection (G)(1) the Authority shall convene a meeting of affected federal, state, and local agencies, affected Indian tribes, the applicant, and other interested parties. At the meeting, the scope of the EIS shall be determined by considering a number of factors, including all of the following:
    - a. The significant issues to be analyzed in depth in the EIS.
    - b. The preliminary range of alternatives to be considered.
    - c. The potential cooperating agencies and information or analyses that may be needed from cooperating agencies or other parties.
    - d. The method for EIS preparation and the public participation strategy.
  3. Upon completion of the scoping process described in subsection (G)(2), the Authority shall identify and evaluate all potentially viable alternatives to adequately address the range of issues identified in the scoping process. Additional issues may also be addressed, or others eliminated, and the reasons documented as part of the EIS.
  4. After the analysis of issues is conducted pursuant to subsection (G)(3), the Department shall issue a draft EIS for public comment. Following public comment pursuant to subsection (I), the Authority shall prepare a final EIS, consisting of all of the following:
    - a. The draft EIS.
    - b. Comments received on the draft EIS.
    - c. A list of persons commenting on the draft EIS.
    - d. The Authority's responses to significant comments received.
    - e. A determination of consistency with the Certified Water Quality Management Plan.
    - f. Any other information added by the Authority.
- H. After a final EIS has been issued under subsection (F), the Authority shall prepare and issue a record of decision (ROD) containing the Authority's decision whether to proceed or not proceed with a project. A ROD issued with a decision to proceed shall include mitigation measures derived from the EIS process. A ROD issued with a decision not to proceed shall preclude the project from receiving financial assistance under this Article.
- I. Any project awaiting financial assistance which has a 5- or more year old categorical exclusion, FNSI, or ROD under this Section shall be subject to an environmental reevaluation. The Authority shall reevaluate the project, environmental conditions, and public views and, in writing, either reaffirm or modify its original decision. Any new information used by the Authority in making its determination shall be included.
- J. Public notice and participation under this Section shall be conducted as follows:
1. If a categorical exclusion is granted under subsection (B), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in 1 or more newspapers of general circulation in the county or counties concerned.
  2. If a FNSI is issued under subsection (F)(2), the Authority shall provide public notice pursuant to R18-1-401(A) that the FNSI is available for public review. The notice shall provide that comments on the FNSI may be submitted to the Authority for a period of 30 days from the date of publication of the notice. If no comments are received, the FNSI shall immediately become effective.

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3. If a Notice of Intent is prepared and distributed under subsection (F)(1), the Authority shall publish it as a legal notice at least once, in 1 or more newspapers of general circulation in the county or counties concerned.
4. If a draft EIS is issued under subsection (F)(4), the Authority shall provide public notice pursuant to A.A.C. R18-1-401(A) that the draft EIS is available for public review. The notice shall provide that comments on the draft EIS may be submitted to the Authority for a period of 30 days from the date of publication of the notice. In addition, if the Authority determines that a project may be controversial, the notice shall provide for a general public hearing to receive public comment pursuant to A.A.C. R18-1-401(B).
5. If the Authority reaffirms or revises a decision pursuant to subsection (H), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in 1 or more newspapers of general circulation in the county or counties concerned.
6. When public notice is required under this subsection, the Authority shall also provide written notice to the applicable Designated Water Quality Management Planning Agency.

**R18-15-208. Project Construction**

- A. The Department shall not issue an Approval to Construct to an applicant or recipient until all of the following have occurred:
  1. An on-site inspection by the Department.
  2. The development by the applicant or recipient of a sludge management use and disposal plan.
  3. A review of all set-back requirements by the Department.
- B. Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:
  1. All easements and rights-of-way have been obtained.
  2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. §§ 41-2501 et seq.
  3. All required approvals and permits have been obtained from the following entities:
    - a. The Department, including the requirements contained in 18 A.A.C. 9.
    - b. Applicable federal, state, and local authorities as related to:
      - i. Leases.
      - ii. Zoning permits.
      - iii. Building permits.
      - iv. Flood plain approvals.
      - v. Air quality permits.
      - vi. Solid waste approvals.
- C. During construction of wastewater treatment facilities, the recipient shall do all the following:
  1. Conduct work in compliance with the requirements of 18 A.A.C. 9.
  2. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
- D. Upon project completion, all of the following requirements shall be satisfied:
  1. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 9.
  2. The recipient shall accept the project in writing.
  3. Any required operation and maintenance manual shall be completed.
  4. As-built plans and specifications shall be submitted to the Department and the recipient.

- E. Within 1 year after project completion, the recipient shall certify that the wastewater treatment facility meets design specifications and all effluent limitations. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the wastewater treatment facility does not meet design standards or effluent limits and what will be done to correct the deficiency, together with a schedule for the corrective actions.

**R18-15-209. Clean Water Revolving Fund Requirements**

- A. The Board shall identify Clean Water Revolving Fund requirements applicable to each project pursuant to the Clean Water Act.
- B. If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. The user charge system shall provide that a user discharging pollutants that cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay proportionately for the increased cost. An applicant's user charge system, based on actual or estimated use of wastewater treatment services, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of treatment works within the applicant's service area, based on the user's proportionate contribution to the total wastewater loading from all users or user classes.
- C. After a project is completed, the governmental unit shall use revenue from the project, including the sale of sludges, gases, liquids, crops, or revenue from leases, to offset the costs of operation and maintenance.
- D. The applicant shall certify that it has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practice relating to or in connection with facilities planning or design work on a wastewater treatment facility project.
- E. First use and equivalency projects shall comply with the provisions of the Civil Rights Act of 1964, P.L. 88-352, and all other applicable federal laws.

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

**R18-15-301. Types of Financial Assistance Available**

- A. The Authority may use the Drinking Water Revolving Fund for any of the following purposes:
  1. Financial assistance, which includes any 1 of the following:
    - a. Loans consistent with § 1452 (a)(2)(f) of the Safe Drinking Water Act;
    - b. The purchase or refinancing of local debt obligations of political subdivisions which were incurred after July 1, 1993, if building began after that date;
    - c. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
    - d. Security as a source of repayment of principal and interest on bonds issued by the Authority provided that the net proceeds of the bonds are deposited in the fund;
    - e. Guarantees of debt obligations by governmental units which are issued to finance eligible projects.
  2. Investments to earn interest to be deposited into the fund.
  3. Payments of costs to administer the fund.
- B. The Board shall describe projects and proposed financial assistance in the Drinking Water Revolving Fund Intended Use Plan, developed pursuant to R18-15-303.

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- C. Pursuant to the Safe Drinking Water Act, fifteen percent of available Drinking Water Revolving Fund financial assistance may be awarded to drinking water facilities serving fewer than 10,000 persons consistent with the requirements for financial assistance within Article 3. On an annual basis, if there are insufficient requests for Drinking Water Revolving Fund financial assistance from drinking water facilities serving fewer than 10,000 persons, the Board may direct the remainder of the fifteen percent to all other drinking water facilities requesting financial assistance consistent with the requirements within Article 3.

**R18-15-302. Eligibility Requirements for Financial Assistance**

- A. To be eligible to receive financial assistance an applicant shall be a drinking water facility as defined by A.R.S. § 49-371. An applicant may propose a project for any of the following purposes: the planning, design, construction, or refinancing of a drinking water facility.
- B. A project eligible under subsection (A) shall also meet all of the following applicable requirements prior to receiving financial assistance:
1. The project shall appear on the Drinking Water Revolving Fund Priority List developed pursuant to R18-15-304.
  2. The applicant shall demonstrate legal capability pursuant to R18-15-203.
  3. The applicant shall demonstrate financial capability pursuant to R18-15-104.
  4. The applicant shall demonstrate technical capability pursuant to R18-15-105.
  5. The applicant shall demonstrate managerial and institutional capability pursuant to R18-15-106.
  6. The applicant shall demonstrate readiness to proceed pursuant to R18-15-107.
  7. The applicant shall obtain or be in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities.
- C. The Board shall provide financial assistance to eligible applicants for proposed projects in priority order according to the priority list developed pursuant to R18-15-304. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Drinking Water Revolving Fund Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Drinking Water Revolving Fund Priority List in rank order that is ready to accept financial assistance.

**R18-15-303. Drinking Water Revolving Fund Intended Use Plan**

The Board shall publish an Intended Use Plan for each year in which it anticipates that it will provide financial assistance for eligible projects. At a minimum the Intended Use Plan shall identify the projects by eligible applicant, project name, type of project, type of financial assistance, amount of financial assistance, and estimated interest rates to be charged. As applicable, the Intended Use Plan shall be prepared after providing for public comment and review. When an Intended Use Plan is to be submitted as first of the required documents to obtain a grant under the Safe Drinking Water Act, the Intended Use Plan shall include such additional information as required.

**R18-15-304. Drinking Water Revolving Fund Priority List**

- A. Each year the Board shall adopt the Priority List for the next year. The Board shall not adopt a new list for years when funds are not adequate to assist any projects.

- B. When the Priority List is required pursuant to subsection (A), the Board shall rank the projects by priority class, priority points, and year.
- C. An applicant desiring placement on the Priority List shall make its request for placement of 1 or more proposed projects on or before a date specified by the Board. When requesting placement on the Priority List, an applicant shall submit information within an application format specified by the Board.
- D. The Board shall prepare a draft Priority List. In developing a draft Priority List, the Board shall consider all requests submitted under subsection (C), all requests made by regulatory authorities, all plans prepared pursuant to the Safe Drinking Water Act, and the most recently adopted Priority List.
- E. The Board shall hold a public meeting to receive comments on the draft Priority List. The Board shall publish a notice of the public meeting in newspapers statewide at least 21 days prior to the meeting date and make copies of the draft Priority List available to the public at least 14 days prior to the meeting date.
- F. The Board shall consider all comments submitted in writing prior to the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but prior to the close of the written comment period. The Board shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. The Board shall also consider the criteria identified in subsection (C). The Board shall summarize all of the comments received, prepare responses, and adopt the Priority List to be used to administer the Drinking Water Revolving Fund during the following fiscal year.
- G. The Board may make additions or modifications to the Priority List when 1 of the following conditions is met:
1. The project meets the criteria for Priority Class A specified in R18-15-305(B).
  2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects or needed to support financial arrangements made to sell bonds for the state match.
  3. The additions or modifications are made by the Board at a public meeting.
- H. After an opportunity for public comment at a public meeting, the Board may remove a project from the Priority List under any 1 of the following circumstances:
1. The project has received all financial assistance from the fund requested by the applicant.
  2. The project has been financed with long-term indebtedness from another source.
  3. The project is no longer an eligible project.
  4. The applicant requests removal.
- I. The Board shall retain a project on the Priority List in its assigned priority ranking if it is bypassed pursuant to R18-15-302(D).

**R18-15-305. Drinking Water Revolving Fund Priority Classes**

- A. The Board shall evaluate each project on the Priority List and place it into a priority class. The Board may place major portions of a project into different priority classes. The Board shall consider separation of a project into different priority classes when requested by the applicant or when the Board determines that available funds are inadequate to provide assistance to projects critical to the public health or to water quality. The Board may re-evaluate project priority classes under R18-15-304(G) if supported by information such as facility plans, feasibility studies, enforcement actions, and environmental reviews conducted under R18-15-307. If the

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Board determines that the problem being addressed by a project can be corrected by proper operation and maintenance of existing facilities, the project is ineligible for financial assistance.

- B. Class A -- The Board may designate a project as Priority Class A if acute violations of the national primary drinking water standards exist. Acute violations are either continuous or intermittent violations where a single exposure to a drinking water contaminant can cause severe health effects. The violations shall be documented by official reports, data, or findings of a regulatory authority and corrective action or mitigation measures have been initiated as evidenced by 1 of the following:
1. An administrative order issued by a regulatory authority.
  2. A court order or decision.
  3. A voluntary compliance agreement with a regulatory authority.
  4. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
  5. A voluntary corrective action plan with a regulatory agency implemented by the applicant and evidenced by restrictions or moratoriums.
- C. Class A: Continuing Construction Projects -- In addition to R18-15-305(B), the Board may designate a project as Priority Class A if the project received funding in a prior fiscal year, the Board entered into a multi fiscal year funding commitment with the applicant, and the project received at least 20 points under R18-15-306.
- D. Class B -- The Board may designate a project as Priority Class B if the goal of the project is to eliminate a non-acute violation of the primary drinking water standards documented by official reports, data, or findings of a regulatory authority and corrective action or mitigation measures have been initiated as evidenced by 1 of the following:
1. An administrative order issued by a regulatory authority.
  2. A court order or decision.
  3. A voluntary compliance agreement with a regulatory authority.
  4. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
  5. A voluntary corrective action plan with a regulatory authority implemented by the applicant and evidenced by restrictions or moratoriums.
- E. Class C -- The Board may designate a project as Priority Class C if the goal of the project is to do 1 of the following:
1. Upgrade or rehabilitate existing delivery capability or existing facility design.
  2. Construct a new drinking water facility.
- F. Class D -- The Board may designate a project as Priority Class D if the goal of the project is to consolidate or regionalize service of previously separate drinking water facilities.
- G. Class E -- The Board may designate a project which does not receive a designation pursuant to subsections (B) through (F) as Priority Class E, if the project is for future growth only or if the project has been financed from another source of long-term indebtedness.

**R18-15-306. Drinking Water Revolving Fund Priority List Ranking Criteria**

- A. The Board shall rank projects within priority classes using priority values obtained from the following formula:
- $PV = HC + FS + PF + CR + FC$  where:  
PV = Priority Value  
HC = Health Criteria  
CFS = Condition of Facilities and Sources

LFC = Local Fiscal Capacity

PYF = Prior Year Funding

CR = Consolidation and Regionalization

- B. Health Criteria (HC) -- Whenever the Board determines that a project seeks to correct a violation of the national primary drinking water standards, the Board shall award HC points. The Board shall use documentation requirements specified under Priority Classes A and B as contained in R18-15-305(B) and R18-15-305(D) to assign HC points. HC points shall be awarded up to a maximum of 100 points with only set of points awarded as follows:
1. 100 points for continuous acute violations.
  2. 80 points for intermittent acute violations.
  3. 60 points for continuous non-acute violations.
  4. 40 points for intermittent non-acute violations.
- C. Condition of Facilities and Sources (CFS) -- If an applicant is seeking financial assistance to construct, upgrade, or rehabilitate a drinking water facilities, the Board shall award CFS points up to a maximum of 125 points as follows:
1. 20 points to secure at least 51% of new source capacity with renewable sources or 10 points to secure at least 51% of new source capacity with non-renewable source.
  2. 20 points to construct, upgrade, or rehabilitate water treatment facilities, other than disinfection equipment.
  3. 20 points to upgrade or rehabilitate capacity of existing storage, pumping, or distribution facilities.
  4. 20 points to upgrade or rehabilitate existing required disinfection equipment.
  5. 15 points to protect existing water sources from existing or future contamination threats.
  6. 15 points to upgrade or rehabilitate an existing wells or spring box.
  7. 10 points to repair existing transmission or distribution systems.
  8. 5 points to reduce taste, odor or corrosion problems with existing facilities.
- D. Local Fiscal Capacity (LFC) -- The Board shall award LFC points up to a maximum of 100 points as follows:
1. Median Household Income (MHI) -- The Board shall divide the MHI from the area served by the applicant by state's MHI (Service Area MHI/State MHI) to award points as follows:
    - a. 40 points if the area's MHI is less than 25% of the State's MHI.
    - b. 30 points if the area's MHI is between 25% and 50% of the State's MHI.
    - c. 20 points if the area's MHI is between 51% and 75% of the State's MHI.
    - d. 10 points if the area's MHI is between 76% and 100% of the State's MHI.
    - e. 0 points if the areas's MHI is more than 100% of the State's MHI.
  2. User Fees -- The Board shall divide the applicant's proposed user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
    - a. 20 points if the rates are more than 2% of the area's MHI.
    - b. 10 points if the rates are between 1% and 2% of the area's MHI.
    - c. 0 points if the rates area less than 1% of the area's MHI.
  3. Investment -- The Board shall divide existing indebtedness, existing investments, and proposed indebtedness by service area's MHI (Investment/Service Area MHI) to award points based as follows:



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- a. 20 points if the existing and proposed investment is more than 1% of the area's MHI.
  - b. 10 points if the existing and proposed investment is between .5% and 1% of the area's MHI.
  - c. 0 points if the existing and proposed investment is less than .5% of MHI.
4. Cost Effectiveness (CE) -- The Board shall divide the estimated costs of construction by the number of benefiting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
- a. 20 points if CE is less than \$2,500 per benefiting connection.
  - b. 10 points if CE is between \$2,500 and \$5,000 per benefiting connection.
  - c. 0 points if CE is more than \$5,000 per benefiting connection.
- E. Prior Year Funding (PYF) -- The Board shall award PYF points up to a maximum of 30 points with only set of points awarded as follows:
1. 30 points if the applicant requests additional financial assistance for a multi-year construction project which received financial assistance from the Authority in a previous fiscal year.
  2. 20 points if the applicant requests additional financial assistance to offset actual costs or justified overruns.
  3. 10 points if the applicant requests financial assistance to construct a project which received planning and design financial assistance from the Authority in a previous fiscal year.
  4. -10 points if the applicant requests financial assistance to offset cost overruns.
- F. Consolidation & Regionalization (CR) -- The Board shall award CR points up to a maximum of 50 points as follows:
1. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
  2. 20 points if the applicant is extending service to existing areas currently served by another facility.
  3. 5 points if the applicant is consolidating the operations of existing multiple facilities.
  4. 5 points if the applicant is consolidating the ownership of existing multiple facilities.
- G. The Board may use the most recent United States census data to determine the applicant's and the state's median household income. If the Board or the applicant determines that this data is insufficient, an income survey can be conducted of the applicant's service area by a reliable impartial source.

**R18-15-307. Environmental Review**

- A. If applicable, the Authority shall conduct an environmental review pursuant to this Section for the design or construction of drinking water facilities in accordance with applicable federal and state law. As part of the application process, the Authority shall provide information on conducting an environmental review consistent with the Safe Drinking Water Act and A.R.S. Title 49.
- B. An applicant may request, in writing, a categorical exclusion. If the Authority determines that a categorical exclusion is warranted under this subsection, the project is exempt from the requirement of this Section. The Authority shall grant an exclusion if existing information and documents demonstrate that the project qualifies under 1 of the following categories:
1. Any project which is directed towards rehabilitation of existing facilities, functional replacement of equipment, or the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility.

2. Any project in communities which is for minor upgrading and minor expansion of existing drinking water facilities.

**R18-15-308. Project Construction**

- A. The Department shall not issue an Approval to Construct to an applicant or recipient until the Department has conducted an on-site inspection.
- B. Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:
1. All easements and rights-of-way have been obtained.
  2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. §§ 41-2501 et seq.
  3. All required approvals and permits have been obtained from the following entities:
    - a. The Department, including the requirements contained in 18 A.A.C. 4.
    - b. Applicable federal, state, and local authorities as related to:
      - i. Leases.
      - ii. Zoning permits.
      - iii. Building permits.
      - iv. Flood plain approvals.
      - v. Air quality permits.
      - vi. Solid waste approvals.
- C. During construction of drinking water facilities, the recipient shall:
1. Conduct work in compliance with the requirements of 18 A.A.C. 4.
  2. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
- D. Upon project completion, all of the following requirements shall be satisfied:
1. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 4.
  2. The recipient shall accept the project in writing.
  3. Any required operation and maintenance manual shall be completed.
  4. As-built plans and specifications shall be submitted to the Department and the recipient.
- E. Within year after project completion, the recipient shall certify that the drinking water facility meets design specifications. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the drinking water facility does not meet design standards and what will be done to correct the deficiency, together with a schedule for the corrective actions.

**R18-15-309. Drinking Water Revolving Fund Requirements**

- A. The Board shall identify Drinking Water Revolving Fund requirements applicable to each project pursuant to the Safe Drinking Water Act.
- B. If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. An applicant's user charge system, based on actual or estimated use of the drinking water facilities, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of facilities within the applicant's service area, based on the user's proportionate use of the facilities.
- C. The applicant shall certify that it has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practice relating to or in connection with facilities planning or design work on a drinking water facility project.

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**ARTICLE 4. WATER INFRASTRUCTURE FINANCE  
AUTHORITY OF ARIZONA: OTHER FINANCIAL  
ASSISTANCE**

**R18-15-401. Types of Financial Assistance Available**

- A. The Authority may use issue Water Quality Bonds on behalf of eligible applicants for any of the following types of financial assistance:
1. Loans.
  2. The purchase or refinance of local debt obligations of political subdivisions.
- B. The Authority may guarantee or purchase of insurance for local obligations for eligible applicants to improve credit market access or reduce interest rates.

**R18-15-402. Eligibility Requirements for Financial Assistance**

- A. An applicant may propose a project for any of the following purposes: the planning, design, construction, or refinancing of wastewater facilities, drinking water facilities and nonpoint source projects.
- B. A project eligible under subsection (A) shall also meet all of the following applicable requirements prior to receiving financial assistance:
1. The applicant shall demonstrate legal capability pursuant to R18-15-103.
  1. The applicant shall demonstrate financial capability pursuant to R18-15-104.
  2. The applicant shall demonstrate technical capability pursuant to R18-15-105.
  3. The applicant shall demonstrate managerial and institutional capability pursuant to R18-15-106.
  4. The applicant shall demonstrate readiness to proceed pursuant to R18-15-107.
  5. The applicant shall obtain or be in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities.

**R18-15-403. Environmental Review**

- A. If applicable, the Authority shall conduct an environmental review pursuant to this Section for the design or construction of wastewater facilities, drinking water facilities or nonpoint source projects is in accordance with applicable federal and state law. As part of the application process, the Authority shall provide information and assist the applicant to complete the environmental review.
- B. An applicant may request, in writing, a categorical exclusion. If the Authority determines that a categorical exclusion is warranted under this subsection, the project is exempt from the requirement of this Section. The Authority shall grant an exclusion if existing information and documents demonstrate that the project qualifies under 1 of the following categories:
1. Any project which is directed towards rehabilitation of existing facilities, functional replacement of equipment, or the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the capacity of the existing facility.

2. Any project which is for minor upgrading or expansion of existing facilities.

**R18-15-404. Project Construction**

Construction of a project shall conform to all of the following requirements:

- A. The Department shall not issue an Approval to Construct to an applicant or recipient until the Department has conducted an on-site inspection.
- B. Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:
1. All easements and rights-of-way have been obtained.
  2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. §§ 41-2501 et seq.
  3. All required approvals and permits have been obtained from the following entities:
    - a. The Department, including the requirements contained in 18 A.A.C. 4 and 18 A.A.C. 9.
    - b. Applicable federal, state, and local authorities as related to:
      - i. Leases.
      - ii. Zoning permits.
      - iii. Building permits.
      - iv. Flood plain approvals.
      - v. Air quality permits.
      - vi. Solid waste approvals.
- C. During construction of the project, the recipient shall do all the following:
1. Conduct work in compliance with the requirements of 18 A.A.C. 4 and 18 A.A.C. 9.
  2. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
- D. Upon project completion, all of the following requirements shall be satisfied:
1. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 4 and 18 A.A.C. 9.
  2. The recipient shall accept the project in writing.
  3. Any required operation and maintenance manual shall be completed.
  4. As-built plans and specifications shall be submitted to the Department and the recipient.
- E. Within 1 year after project completion, the recipient shall certify that the project meets design specifications. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the project does not meet design standards and what will be done to correct the deficiency, together with a schedule for the corrective actions.